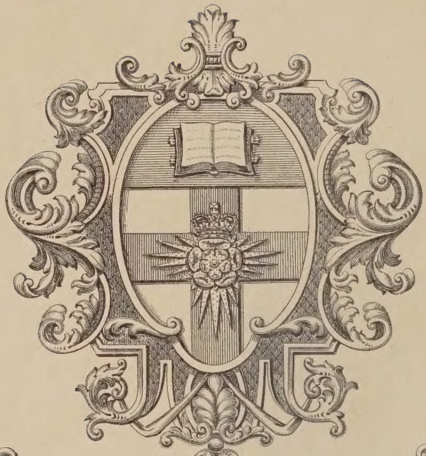
PARL. PAPERS
FOR REFERENCE ONLY.



University of London

BILLS,

PUBLIC:

SIX VOLUMES.

— (2.) —

COMMONS' INCLOSURE

TO

CUSTOMS.

Session

31 *January* —— 29 *July* 1856.

VOL. II.

1856.

Court of Chancery (Ireland) (Procedure):

12. Bill to amend the Practice and Course of Proceeding in the High Court of Chancery in *Ireland* - - - - - - - - - p. 283

Court of Chancery (Ireland) (Receivers):

13. Bill to alter the Law and Practice of the High Court of Chancery in *Ireland* in relation to the Appointment of Receivers, and the Management of Estates under the Control of the said Court - - - - - - - - 351

Court of Chancery (Ireland) (Receivers):

209. Bill to amend the Law and Practice of the Court of Chancery in *Ireland* in relation to the Appointment of Receivers over Real Estate, and to expedite the Sale of Estates in the said Court - - - - - - - - - 371

Court of Chancery (Ireland) (Sales of Estates):

15. Bill for securing the Titles of Purchasers of Estates sold under the Court of Chancery in *Ireland* - - - - - - - - - - 375

Court of Exchequer (Scotland):

120. Bill to constitute the Court of Session the Court of Exchequer in *Scotland*, and to regulate Procedure in Matters connected with the Exchequer - - 389
195. Same [as amended in Committee] - - - - - - - - 421

Courts of Common Law (Ireland):

17. Bill to further amend the Procedure in and to enlarge the Jurisdiction of the Superior Courts of Common Law in *Ireland* - - - - - - 453
76. Same [as amended in Committee] - - - - - - - - 473
131. Same [as amended in Committee, and on Re-commitment] - - - 497

Criminal Appropriation of Trust Property:

219. Bill to amend the Law relating to the Criminal Appropriation of Property held by Persons as Trustees or Bailees - - - - - - - 521

Criminal Justice:

226. Bill to amend the Act of the last Session of Parliament, for diminishing Expense and Delay in the Administration of Criminal Justice in certain Cases - 525

Cursitor Baron of the Exchequer:

253. Bill to abolish the Office of Cursitor Baron of the Exchequer - - - 529

Customs (No. 2):

130. Bill for the further Alteration and Amendment of the Laws and Duties of Customs - - - - - - - - - - - - 533

14 *February* 1856. 19 VICT.

A

BILL

TO

Authorize the Inclosure of certain Lands in pursuance of a Report of the Inclosure Commissioners for England and Wales.

Preamble.

WHEREAS the Inclosure Commissioners for England and Wales have, in pursuance of "The Acts for the Inclosure, "Exchange, and Improvement of Land," issued their Provisional Orders for and concerning the proposed Inclosures mentioned in the Schedule to this Act, and have in their Eleventh Annual General Report certified their Opinion that such Inclosures would be expedient; but the same cannot be proceeded with without the previous Authority of Parliament: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Inclosures mentioned in Schedule may be proceeded with.

I. That the said several proposed Inclosures mentioned in the Schedule to this Act be proceeded with.

Short Title.

II. In citing this Act in other Acts of Parliament and in legal Instruments it shall be sufficient to use either the Expression "The "Annual Inclosure Act, 1856," or "The Acts for the Inclosure, "Exchange, and Improvement of Land."

SCHEDULE to which this Act refers.

Inclosure.	County.	Date of Provisional Order.
Southwick - -	Sussex - -	26th May 1854.
Steep - - -	Southampton - -	17th May 1855.
Edlesborough - -	Bucks - - -	31st May 1855.
Birchanger - -	Essex - -	28th June 1855.
Highweek - - -	Devon - - -	5th July 1855.
Marrick - - -	York - - -	2d August 1855.
Wiggenhall Mead and Middle Moor Mead.	Hertford - -	19th April 1855.
Romsley - - -	Worcester - -	18th June 1855.
Church Coniston - -	Lancaster - -	2d August 1855.
Ingoldsthorpe - -	Norfolk - -	2d August 1855.
Capel Rigg Intack - -	Westmorland - -	6th September 1855.
Rettendon - - -	Essex - -	5th July 1855.
Alderholt - - -	Dorset - -	6th September 1855.
West Chiltington - -	Sussex - -	25th October 1855.
Conisbrough - -	York - -	18th August 1855.
Lockhill Wood - -	Hertford - - -	25th June 1855.
Coventry - - -	Warwick - - -	5th July 1855.
Mappledurwell - -	Southampton - -	20th December 1855.
Meonstoke -	Southampton - -	4th January 1856.
Llanteague Common - -	Pembroke - -	17th January 1856.
Penherget - - -	Cornwall - -	21st January 1856.
Langley - - -	Kent - - -	4th January 1856.
Talyvan - - -	Glamorgan - -	17th January 1856.
Woolscott - - -	Warwick - -	17th May 1855.
Hunderthwaite - -	York - - -	17th January 1856.
Hexton - - -	Hertford - -	6th October 1853.
Hempton - - -	Norfolk - - -	24th January 1856.
Upton upon Severn and Ripple	Worcester - -	10th January 1856.
Rogate - - -	Sussex - -	12th January 1856.
Niton (Isle of Wight) -	Southampton - -	22d December 1855.

Commons Inclosure.

A

BILL

To authorize the Inclosure of certain Lands in pursuance of a Report of the Inclosure Commissioners for England and Wales.

(Prepared and brought in by
Mr. Massey and Sir George Grey.)

Ordered, by The House of Commons, *to be Printed,*
14 *February* 1856.

[Bill 34.]

Under 1 *oz.*

2 *July* 1856. 19 & 20 Vict.

A

BILL

TO

Authorize the Inclosure of certain Lands in pursuance of a Special Report of the Inclosure Commissioners for England and Wales.

Preamble.

WHEREAS the Inclosure Commissioners for England and Wales have, in pursuance of "The Acts for the Inclosure, Exchange, and Improvement of Land," issued their Provisional Orders for and concerning the proposed Inclosures mentioned in the Schedule to this Act, and the requisite Consents thereto have been given since the Date of their Eleventh Annual General Report: And whereas the said Commissioners have by a Special Report certified their Opinion that such proposed Inclosures would be expedient; but the same cannot be proceeded with without the previous Authority of Parliament: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Inclosures mentioned in the Schedule may be proceeded with.

I. That the said several proposed Inclosures mentioned in the Schedule to this Act be proceeded with.

Short Title.

II. In citing this Act in other Acts of Parliament and in legal Instruments it shall be sufficient to use either the Expression "The

Second Annual Inclosure Act, 1856," or "The Acts for the Inclosure, Exchange, and Improvement of Land."

SCHEDULE to which this Act refers.

Inclosure.	County.	Date of Provisional Order.
Newport - - - -	Essex - - -	17th October 1855.
Hennington Hill - -	Somerset - -	14th February 1856.
East Meon - - -	Southampton - -	28th February 1856.
Wintershill Common -	Southampton - -	10th January 1856.
Llyswen Commonable Fields -	Brecon - -	19th March 1856.
Llyswen Common - -	Brecon - - -	19th March 1856.
Mynyddfernach - -	Brecon - -	19th March 1856.
Hatherton - - - -	Stafford - - -	7th February 1856.
Letterston - - -	Pembroke - -	17th April 1856.
South Creake - - -	Norfolk - - -	1st May 1856.
Calstock - - -	Cornwall - -	2d June 1853.
Winterburn Moor - -	York - - -	22d May 1856.
Brixham - - -	Devon - -	1st May 1856.
Chatcul Green - - -	Stafford - - -	8th May 1856.
Brandsby - - -	York - - -	8th May 1856.
Lynton - - -	Devon - -	22d May 1856.
Linn otherwise Lyn - -	Devon - -	22d May 1856.
Filton - - - -	Gloucester - -	8th May 1856.
Aston and Bennington -	Hertford - -	24th January 1854.
Bennington Aston and Little Munden - - -	Hertford - -	1st May 1856.
Appleton Roebuck - -	York - - -	8th May 1856.
Saint Lythans Down - -	Glamorgan - -	1st May 1856.
Entwisle - - -	Lancaster - -	1st May 1856.
Framfield Manor - -	Sussex - - -	27th May 1856.
Liss - - -	Southampton - -	18th January 1856.
Hughenden - - -	Bucks - - -	5th June 1856.
Alwinton - - -	Northumberland -	26th June 1856.
Glyngynwidd and Glynbrochan	Montgomery - -	3d April 1856.
Llangeitho Common - -	Cardigan - -	26th June 1856.

Commons Inclosure
(No. 2.)

A

B I L L

To authorize the Inclosure of certain Lands in pursuance of a Special Report of the Inclosure Commissioners for England and Wales.

(*Prepared and brought in by*
Mr. Massey and Sir George Grey.)

Ordered, by The House of Commons, *to be Printed,*
2 *July* 1856.

[Bill 216.]

Under 1 *oz.*

7 *July* 1856. 19 & 20 Vict.

A

BILL

TO

Apply a Sum out of the Consolidated Fund and the Surplus of Ways and Means to the Service of the Year One thousand eight hundred and fifty-six, and to appropriate the Supplies granted in this Session of Parliament.

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal Subjects, the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled, towards making good the Supply which we have cheerfully granted to Your Majesty in this Session of Parliament, have resolved to grant unto Your Majesty the Sums herein-after mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preamble.

I. There shall and may be issued and applied, for or towards making good the Supply granted to Her Majesty for the Service of the

There shall be applied for the Service of the Year 1856 the Sum of 24,548,773*l.* 0*s.* 7*d.* out of the Consolidated Fund.

the Year One thousand eight hundred and fifty-six, the Sum of Twenty-four millions five hundred forty-eight thousand seven hundred and seventy-three Pounds and Sevenpence out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or the Lord High Treasurer of the United Kingdom of Great Britain and Ireland, for the Time being, are or is hereby authorized and expowered to issue and apply the same accordingly.

The Treasury may cause 24,548,773*l.* 0*s.* 7*d.* of Exchequer Bills to be made out in manner prescribed by 48 G. 3. c. 1., 4 & 5 W. 4. c. 15., and 5 & 6 Vict. c. 66.

II. It shall be lawful for the said Commissioners of Her Majesty's Treasury from Time to Time, by Warrant under their Hands, to cause or direct any Number of Exchequer Bills to be made out at the Receipt of Her Majesty's Exchequer at Westminster for any Sum or Sums of Money not exceeding in the whole the Sum of Twenty-four millions five hundred forty-eight thousand seven hundred and seventy-three Pounds and Sevenpence; and such Exchequer Bills shall be made out in the same or like Manner, Form, and Order, and according to the same or like Rules and Directions, as are directed and prescribed in an Act passed in the Forty-eighth Year of the Reign of His Majesty King George the Third, Chapter One, and in another Act passed in the Session of Parliament holden in the Fourth and Fifth Years of the Reign of His late Majesty King William the Fourth, Chapter Fifteen, and in another Act passed in the Session of Parliament holden in the Fifth and Sixth Years of the Reign of Her present Majesty, Chapter Sixty-six.

The Clauses, &c. in recited Acts extended to this Act.

III. All and every the Clauses, Provisoes, Powers, Privileges, Advantages, Penalties, Forfeitures, and Disabilities contained in the said Acts shall be applied and extended to the Exchequer Bills to be made out in pursuance of this Act, as fully and effectually, to all Intents and Purposes, as if particularly repeated and re-enacted in this Act.

Interest on Exchequer Bills.

IV. The Exchequer Bills to be made out in pursuance of this Act shall and may bear an Interest not exceeding the Rate of Threepence Halfpenny per Centum per Diem upon or in respect of the whole of the Monies respectively contained therein.

Bank of England may advance 24,548,773*l.* 0*s.* 7*d.* on the Credit of this Act, notwithstanding 5 & 6 W. & M. c. 20.

V. It shall and may be lawful for the Governor and Company of the Bank of England, and they are hereby empowered, to take, accept, and receive the Exchequer Bills authorized to be made out in pursuance of this Act, and to advance or lend to Her Majesty, at the Receipt of the Exchequer at Westminster, upon the Credit of the Sum granted by this Act, out of the Consolidated Fund of the United

Kingdom of Great Britain and Ireland, any Sum or Sums of Money not exceeding in the whole the Sum of Twenty-four millions five hundred forty-eight thousand seven hundred and seventy-three Pounds and Sevenpence, anything in an Act passed in the Fifth and Sixth Years of the Reign of King William and Queen Mary, Chapter Twenty, or in any other Act or Acts, to the contrary notwithstanding.

Bills prepared by virtue of this Act to be delivered to the Bank, as Security for such Advances.

VI. It shall be lawful for the said Commissioners of Her Majesty's Treasury, and they are hereby authorized and empowered, to cause such Bills as shall be prepared by virtue of this Act to be delivered from Time to Time to the Governor and Company of the Bank of England, in such Proportions as the Public Service may require, as Security for any Advance or Advances which may be made to Her Majesty by the said Governor and Company of the Bank of England, under the Authority of this Act.

Monies raised by Bills to be applied to the Services voted by the Commons.

VII. It shall be lawful for the said Commissioners of Her Majesty's Treasury to issue and apply from Time to Time all such Sums of Money as shall be raised by Exchequer Bills to be made out in pursuance of this Act to such Services as shall then have been voted by the Commons of the United Kingdom of Great Britain and Ireland in this present Session of Parliament.

Power to apply Monies raised by Acts c. 6. and c. 21. of present Session to Services voted by the Commons repealed.

VIII. So much of Two Acts passed in the present Session, Chapter Six, for raising the Sum of Five Millions by way of Annuities, and Chapter Twenty-one for raising a further Sum of Five Millions by way of Annuities, as provide that the Commissioners of Her Majesty's Treasury shall be empowered to apply the Monies to be raised under the said Acts to such Services as shall have been or shall be voted by the Commons of the United Kingdom of Great Britain and Ireland shall be and the same is hereby repealed.

Exchequer Bills made chargeable upon the growing Produce of the Consolidated Fund.

IX. The Principal Sum or Sums of Money to be contained in all such Exchequer Bills to be made forth by virtue of this Act, together with the Interest that may become due thereon, shall be and the same are hereby made chargeable and charged upon the growing Produce of the Consolidated Fund of the United Kingdom of Great Britain and Ireland in the next succeeding Quarter to that in which the said Exchequer Bills have been issued; and it shall be lawful for the said Commissioners of Her Majesty's Treasury for the Time being, and they are hereby authorized, from Time to Time, by Warrant under their Hands, to direct the Comptroller General of the Receipt of the Exchequer at Westminster, in such Manner as they shall think necessary, to grant a Credit on the Exchequer Funds in the Bank of

England unto such Person or Persons as shall be named in the said Warrant, which Credit shall be chargeable on and paid out of the growing Produce of the said Consolidated Fund of the next succeeding Quarter to that in which the said Exchequer Bills have been issued, for any Sum or Sums of Money not exceeding in the whole a Sum sufficient to discharge and pay off the Principal Sum or Sums of Money contained in such Exchequer Bills then outstanding, and which may have been made out and issued by virtue of this Act, together with all such Interest as may be due thereupon.

Treasury may apply for the Service of the Year 1855 562,028*l.* 13*s.* Surplus of Ways and Means.

X. There shall and may be issued and applied, for or towards making good the Supply granted to Her Majesty for the Service of the Year One thousand eight hundred and fifty-six, the Sum of Five hundred and sixty-two thousand and twenty-eight Pounds Thirteen Shillings, being the Surplus of Ways and Means granted for the Service of preceding Years, and the Commissioners of Her Majesty's Treasury are hereby authorized and empowered to issue and apply the same accordingly.

Appropriation of Ways and Means to Services hereafter expressed.

19 & 20 Vict. c. 4.

19 & 20 Vict. c. 7.

19 & 20 Vict. c. 9.

XI. All the Monies coming into the Exchequer of the United Kingdom of Great Britain and Ireland by an Act passed in this Session of Parliament, intituled "An Act to apply the Sum of One "million six hundred thirty-one thousand and five Pounds One Shilling and Fivepence out of the Consolidated Fund to the Service of "the Year ending on the Thirty-first Day of March One thousand "eight hundred and fifty-six;" and also the Sum of Twenty-six millions granted by one other Act passed in this Session of Parliament, intituled "An Act to apply the Sum of Twenty-six millions out of "the Consolidated Fund to the Service of the Year One thousand "eight hundred and fifty-six;" and also the Sum of Twenty-one million one hundred and eighty-two thousand seven hundred Pounds, granted by one other Act passed in this Session of Parliament, intituled "An Act for raising the Sum of Twenty-one million one hundred "and eighty-two thousand seven hundred Pounds by Exchequer "Bills for the Service of the Year One thousand eight hundred "and fifty-six;" and also the respective Sums of Twenty-four millions five hundred forty-eight thousand seven hundred and seventy-three Pounds and Sevenpence and of Five hundred sixty-two thousand and twenty-eight Pounds Thirteen Shillings by this Act granted, amounting in the aggregate to the Sum of Fifty-two millions seven hundred forty-one thousand eight hundred and six Pounds Fifteen Shillings in Money, and Twenty-one million one hundred and eighty-two thousand seven hundred Pounds in Exchequer Bills, shall be further appropriated, and are hereby appropriated, and shall be issued and applied for or towards the several Uses and Purposes hereafter expressed.

XII. And whereas, in order to provide for the Exigencies of the Naval Service, it has been necessary to incur an Expenditure for Naval Services beyond the Grants for the Year ended on the Thirty-first Day of March One thousand eight hundred and fifty-five, amounting to Two hundred and four thousand nine hundred and eighty-two Pounds One Shilling and Fivepence: Be it therefore enacted, That out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money, not exceeding Two hundred and four thousand nine hundred and eighty-two Pounds One Shilling and Fivepence, to defray the Excess of the Naval Expenditure beyond the Grants for the Year ended on the Thirty-first Day of March One thousand eight hundred and fifty-five.

There shall be issued 204,982*l.* 1*s.* 5*d.* for Excess of Naval Expenditure beyond the Grants for 1854–5.

XIII. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Sixteen million five hundred sixty-eight thousand six hundred and fourteen Pounds, for or towards the Navy Services herein-after more particularly mentioned; (that is to say,) any Sum or Sums of Money not exceeding Two million six hundred one thousand nine hundred and twenty-two Pounds, to defray the Charge of Wages to Seventy-six thousand Seamen and Marines, which will come in course of Payment during the Three Months ending on the Thirtieth Day of June One thousand eight hundred and fifty-six, and also the Charge of Wages to Fifty-six thousand Seamen and Marines, which will come in course of Payment during the Nine Months from the Thirtieth Day of June One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One million one hundred sixty-seven thousand three hundred and thirty-eight Pounds to defray the Charge of Victuals to Seamen and Marines in Her Majesty's Fleet, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One hundred thirty-eight thousand three hundred and ninety-nine Pounds, to defray the Salaries of the Officers and the contingent Expenses of the Admiralty Office, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty thousand Pounds, to defray the Charges for the Royal Naval Coast Volunteers, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Fifty-eight thousand nine hundred and eighty-two Pounds, to defray the Salaries of the Officers and the contingent Expenses of the several Scientific Departments of the Navy, which

There shall be issued 16,568,614*l.* for Navy Services; viz.

2,885,567*l.* for Wages to 76,000 and 56,000 Seamen and Marines;

1,167,338*l.* for Victuals, &c. in the Navy;

138,399*l.* for Salaries, &c. of the Admiralty Office;

20,000*l.* for the Royal Naval Coast Volunteers;

58,982*l.* for the Navy Scientific Departments;

will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One hundred fifty-three thousand seven hundred and ninety-five Pounds, to defray the Salaries of the Officers and the contingent Expenses of Her Majesty's Naval Establishments at home, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Thirty-six thousand four hundred and ninety-four Pounds, to defray the Salaries of the Officers and the contingent Expenses of Her Majesty's Naval Establishments abroad, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One million one hundred ninety thousand three hundred and nine Pounds, to defray the Charge of Wages to Artificers, Labourers, and others employed in Her Majesty's Naval Establishments at home, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One hundred and nine thousand nine hundred and thirteen Pounds, to defray the Charge of Wages to Artificers, Labourers, and others employed in Her Majesty's Naval Establishments abroad, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three million five hundred thousand Pounds, to defray the Expense of Naval Stores for the Building, Repair, and Outfit of the Fleet, the Purchase of Steam Machinery, and for other Purposes connected therewith, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Eight hundred sixty-four thousand three hundred and thirty-four Pounds, to defray the Charge of new Works, Improvements, and Repairs in the Naval Establishments, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Sixty-five thousand five hundred Pounds, to defray the Charge of Medicines and Medical Stores, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Eighty-eight thousand nine hundred and seventy-two Pounds, to defray the Charge of divers Naval Miscellaneous Services, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six hundred fifty-five thousand

153,795*l.* for Naval Establishments at home;

36,494*l.* for Naval Establishments abroad;

1,190,309*l.* for Wages of Artificers, &c. at home;

109,913*l.* for Wages of Artificers, &c. abroad;

3,500,000*l.* for Naval Stores, &c.;

864,334*l.* for new Works in Naval Establishments;

65,500*l.* for Medicines, &c.;

88,972*l.* for Naval Miscellaneous Services;

655,421*l.* for Naval Half Pay, &c.;

thousand four hundred and twenty-one Pounds, to defray the Charge of Half Pay, Reserved Half Pay, and Retirement to Officers of the Navy and Royal Marines, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Four hundred ninety-four thousand three hundred and sixty-three Pounds, to defray the Charge of Military Pensions and Allowances, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One hundred forty-seven thousand six hundred and eighty-five Pounds, to defray the Charge of Civil Pensions and Allowances, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Four million nine hundred seventy-seven thousand and two hundred Pounds, to defray the Salaries and contingent Expenses of the Transport Service, for the Freight of Ships, for the Victualling and Conveyance of Troops on account of the Army and Ordnance Departments, and for Expenses arising from Prisoners of War, which will come in course of Payment during the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seven hundred fifty-six thousand four hundred and eighty-seven Pounds, to provide for the estimated Charge of the Packet Service for the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Forty thousand Pounds for the Purchase, in the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven, of Ground, for the Purpose of extending Her Majesty's Dockyard at Deptford, and for the Erection of a Fence Wall, &c.; and any Sum or Sums of Money not exceeding One thousand Pounds, for the Payment, in the Year ending on the Thirty-first Day of March One thousand eight hundred and fifty-seven, of Rewards to the Officers and Crew of Her Majesty's Ship Prometheus, for Services against Riff Pirates.

494,363*l.* for Military Pensions;

147,685*l.* for Civil Pensions;

4,977,200*l.* for Transport Service, Freight of Ships, &c., for Army and Ordnance Services, and for Expenses of Prisoners of War;

756,487*l.* for Packet Service;

40,000*l.* for the Purchase of Ground at Deptford, &c.;

1,000*l.* for Rewards to Officers, &c. of Her Majesty's Ship "Prometheus."

XIV. Out of all or any the Aids and Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Twenty million four hundred seventy-eight thousand and thirty-four Pounds for or towards the Army Services herein-after more particularly mentioned; (that is to say,) any Sum or Sums of Money not exceeding Seven million and ten Pounds, for defraying the Charge of Her Majesty's Land Forces in the United Kingdom of Great Britain and Ireland and at Foreign Stations (excepting India), which will come in course of Payment from the First Day of April One thousand eight

There shall be issued 20,478,034*l.* for Army Services, viz.:

7,000,010*l.* for Forces in U.K. and Stations abroad (except East Indies);

1,000,010*l.* for Embodied Militia;

88,000*l.* for Volunteer Corps;

250,010*l.* for Army Works Corps;

169,026*l.* for Salaries, &c. of War Department;

22,791*l.* for Head Quarters Military Departments.

450,010*l.* for Civil Establishments, &c.;

450,010*l.* for Wages of Artificers, &c.;

4,000,010*l.* for Clothing, Barrack Furniture, &c.;

hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding One million and ten Pounds, for defraying the Charge of the Embodied Militia of Great Britain and Ireland, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Eighty-eight thousand Pounds, for defraying the Charge of Volunteer Corps in Great Britain, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Two hundred fifty thousand and ten Pounds, for defraying the Charge of the Army Works Corps, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding One hundred sixty-nine thousand and twenty-six Pounds, for defraying the Charge of the Salaries and Contingencies of the War Department, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Twenty-two thousand seven hundred and ninety-one Pounds, for defraying the Charge of the Head Quarters Military Departments, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Four hundred fifty thousand and ten Pounds, for defraying the Charge of the Civil Establishments at home and abroad, Salaries, Allowances, and Contingencies, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Four hundred fifty thousand and ten Pounds, for defraying the Charge of the Wages of Artificers, Labourers, and others employed at home and abroad, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Four million and ten Pounds, for defraying the Charge of the Supplies of Clothing, Barrack Furniture, &c., Provisions, Forage, Fuel, and Light, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Two million five hundred thousand and ten Pounds, for defraying the Charge of Stores for Land and Sea Service, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding One million eight hundred thirty-nine thousand and sixty-nine Pounds, for defraying the Charge of Works, Buildings, and Repairs at home and abroad, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Two hundred thirty-eight thousand four hundred and four Pounds, for defraying the Charge of the Educational and Scientific Branches, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Twenty-five thousand four hundred Pounds, for defraying the Charge of Rewards for distinguished Services, &c., which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Sixty-seven thousand Pounds, for defraying the Charge of the Pay of General Officers, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Five hundred nineteen thousand and ninety-four Pounds, for defraying the Charge of the Pay of Reduced and Retired Officers, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Two hundred twenty thousand four hundred and twenty Pounds, for defraying the Charge of Pensions to Widows of Officers, and of Allowances on the Compassionate List, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Eighty-three thousand five hundred and fifty-eight Pounds, for defraying the Charge of Pensions, Gratuities, &c. to Wounded Officers, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding

2,500,010*l.* for Stores for Land and Sea Service;

1,839,069*l.* for Works, Buildings, &c;

238,404*l.* for Educational and Scientific Branches;

25,400*l.* for Rewards for distinguished Services, &c.;

67,000*l.* for Pay of General Officers;

519,094*l.* for Reduced and Retired Officers;

220,420*l.* for Pensions to Widows, and Compassionate List, &c.;

83,558*l.* for Pensions, Gratuities, &c. to wounded Officers;

32,096*l.* for In-Pensioners of Chelsea and Kilmainham Hospitals;

1,168,392*l.* for Out-Pensioners of Chelsea Hospital, &c.;

124,264*l.* for Superannuation and Retired Allowances;

1,500*l.* for Education of Twenty Queen's Cadets, Sons of Officers who have died in Service;

228,950*l.* for Disembodied Militia.

Thirty-two thousand and ninety-six Pounds, for defraying the Charge of Chelsea and Kilmainham Hospitals, and the In-Pensioners thereof, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums not exceeding One million one hundred sixty-eight thousand three hundred and ninety-two Pounds, for defraying the Charge of Out-Pensioners of Chelsea Hospital, &c., which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding One hundred twenty-four thousand two hundred and sixty-four Pounds, for defraying the Charge of Superannuation and Retired Allowances, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding One thousand five hundred Pounds, for defraying the Charge of the gratuitous Education of Twenty Queen's Cadets, the Sons of Officers who have died on Service and have left their Families in reduced Circumstances, which will come in course of Payment from the First Day of April One thousand eight hundred and fifty-six to the Thirty-first Day of March One thousand eight hundred and fifty-seven inclusive; and any Sum or Sums of Money not exceeding Two hundred twenty-eight thousand nine hundred and fifty Pounds to defray the Charge of the Disembodied Militia of Great Britain and Ireland, which will come in course of Payment to the Thirty-first Day of March One thousand eight hundred and fifty-seven.

There shall be issued 2,000,000*l.* for Excess of Military and Naval Expenditure beyond the Grants for 1855–6.

XV. And whereas, in order to provide for the Exigencies of the Military and Naval Services occasioned by the late War, it has been necessary to incur an Expenditure, and it may be necessary to incur a further Expenditure, for Military and Naval Services beyond the Grants for the Years One thousand eight hundred and fifty-five—six, and One thousand eight hundred and fifty-six—seven: Be it therefore enacted, That out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Two million Pounds towards defraying the Expenses beyond the ordinary Grants for the Years One thousand eight hundred and fifty-five—six and One thousand eight hundred and fifty-six—seven, for Military and Naval Services occasioned by the late War.

There shall be issued 1,346,023*l.* for

XVI. And whereas, in order to provide for the Exigencies of the Ordnance Services, it has been necessary to incur an Expenditure for Ordnance Services beyond the Grants for the Year ended on the Thirty-first Day of March One thousand eight hundred and fifty-six, amounting to One million three hundred forty-six thousand and twenty-three Pounds: Be it enacted, That out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Two hundred ninety-four thousand one hundred and fifty-four Pounds, to defray the Charges for Barrack Supplies, which will come in course of Payment during the Year ended on the Thirty-first Day of March One thousand eight hundred and fifty-six; and any Sum or Sums of Money not exceeding Sixty-two thousand three hundred and sixteen Pounds, to defray the Charge for Wages, which will come in course of Payment during the Year ended on the Thirty-first Day of March One thousand eight hundred and fifty-six; and any Sum or Sums of Money not exceeding Nine hundred eighty-seven thousand one hundred and eighty-five Pounds, to defray the Charge for Stores, which will come in course of Payment during the Year ended on the Thirty-first Day of March One thousand eight hundred and fifty-six; and any Sum or Sums of Money not exceeding Two thousand three hundred and sixty-eight Pounds, to defray the Charges for Scientific Branch, which will come in course of Payment during the Year ended on the Thirty-first Day of March One thousand eight hundred and fifty-six.

Excess of Ordnance Expenditure beyond the Grants for 1855–6;

294,154*l.* for Barrack Supplies;

62,316*l.* for Wages, &c.;

987,185*l.* for Stores;

2,368*l.* for Scientific Branch;

XVII. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Twenty-one million one hundred eighty-two thousand seven hundred Pounds, to pay off and discharge Exchequer Bills charged on the Aids of One thousand eight hundred and fifty-six unprovided for.

There shall be issued 21,182,700*l.* to pay off Exchequer Bills of 1855;

XVIII. And whereas it has been found necessary to incur an Expenditure in the Mint Department for the various Medal Services beyond the Grant for the Year ended on the Thirty-first Day of March One thousand eight hundred and fifty-six, amounting to Eighty thousand Pounds: Be it enacted, That out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Eighty thousand Pounds, to make good, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Deficiency of the Vote for the Year One thousand eight hundred and fifty-five—six, for defraying the Expenditure of the Mint for the various Medal Services.

There shall be issued 80,000*l.* for Excess of Expenditure in the Mint Department.

XIX. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding

There shall be issued 100,000*l.* for Civil Contingencies.

ceeding One hundred thousand Pounds, to defray the Charge of Civil Contingencies to the Thirty-first Day of March One thousand eight hundred and fifty-seven.

REVENUE DEPARTMENTS.

There shall be issued 840,001*l.* for Customs Department;

486,028*l.* for the Coast Guard, &c.;

1,459,207*l.* for Inland Revenue Department;

63,025*l.* for Revenue Police, Ireland, and "Seamew" Steamer;

1,740,483*l.* for Post Office, &c.;

XX. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Eight hundred forty thousand and one Pounds, to defray the Salaries and Expenses of the Customs Department, which will come in course of Payment during the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Four hundred eighty-six thousand and twenty-eight Pounds, to defray the Salaries and Expenses of the Coast Guard, including Revenue Cruisers, which will come in course of Payment during the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One million four hundred fifty-nine thousand two hundred and seven Pounds, to defray the Salaries and Expenses of the Inland Revenue Department, which will come in course of Payment during the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Sixty-three thousand and twenty-five Pounds, to defray the Salaries and Expenses of the Revenue Police, Ireland, and "Seamew" Steamer, which will come in course of Payment during the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One million seven hundred forty thousand four hundred and eighty-three Pounds, to defray the Charges for Post Office Services, and the Collection of the Revenue, which will come in course of Payment during the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven.

CIVIL SERVICES, *Class* 1.

CIVIL SERVICES.—Class 1.

There shall be issued 194,575*l.* for Repair of Royal Palaces, &c.;

7,868*l.* for additional Works, Gas-lighting, &c., at Buckingham Palace;

XXI. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding One hundred ninety-four thousand five hundred and seventy-five Pounds, to defray, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Expense of Maintenance and Repairs of Royal Palaces Public Buildings; and any Sum or Sums of Money not exceeding Seven thousand eight hundred and sixty-eight Pounds, for additional Works, Gaslighting, Warming, and other Contingencies at Buckingham Palace, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Eighty-nine thousand one hundred and fourteen Pounds, to defray, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Expense of maintaining and keeping in repair the Royal Parks, Pleasure Grounds, &c., and other Charges connected therewith; and any Sum or Sums of Money not exceeding Ninety-nine thousand three hundred and eighty-three Pounds, for Works and Expenses at the New Houses of Parliament, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two hundred and seven thousand three hundred and five Pounds, on account of the Works at the New Packet Harbour and Harbour of Refuge at Holyhead, &c., to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two hundred and thirty-three thousand Pounds, towards defraying the Expense of constructing certain Harbours of Refuge, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three hundred and eighty-four Pounds, to defray the Expense of the Pay of the Establishment and the necessary Works at Port Patrick Harbour, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Forty-one thousand and twenty-one Pounds, to defray the Expense of repairing and maintaining the several Public Buildings in the Department of the Commissioners of Public Works in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Nineteen thousand three hundred and fifty Pounds, to defray the Expense of the Works and Establishment of Kingstown Harbour, to the Thirty-first Day of March One thousand eight hundred and fifty-seven.

89,114*l.* for Repair of Royal Parks, &c.;

99,383*l.* for New Houses of Parliament;

207,305*l.* for Holyhead Harbour;

233,000*l.* for Harbours of Refuge;

384*l.* for Port Patrick Harbour;

41,021*l.* for Public Buildings in Department of Public Works in Ireland;

19,350*l.* for Kingstown Harbour.

Civil Services.—Class 2.

Civil Services, *Class* 2.

XXII. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Eighty-three thousand six hundred and eighty Pounds, to pay the Salaries and Expenses of the Two Houses of Parliament, and Allowances to the Retired Officers of the Two Houses, to the Thirty-first Day of March One thousand eight and fifty-seven; and any Sum or Sums of Money not exceeding Fifty-two thousand and ninety-five Pounds, to pay the Salaries and Expenses of the Department of Her Majesty's Treasury, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-four thousand two hundred and four Pounds, to pay the Salaries and Expenses of the Office of Her Majesty's Secretary of State for the Home Department, to the Thirty-first Day of

There shall be issued 83,680*l.* for Salaries, &c. of Houses of Parliament;

52,095*l.* for the Treasury;

24,204*l.* for the Home Department;

68,241*l.* for the Foreign Department;

March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Sixty-eight thousand two hundred and forty-one Pounds, to pay the Salaries and Expenses in the Department of Her Majesty's Secretary of State for Foreign Affairs, and also of the Queen's Messengers, and Extra Couriers attached to that Department, to the Thirty-first Day of March One thousand eight hundred and fifty-seven;

28,452*l.* for Department of Colonies;

and any Sum or Sums of Money not exceeding Twenty-eight thousand four hundred and fifty-two Pounds, to pay the Salaries and Expenses in the Department of Her Majesty's Secretary of State for the Colonies, to the Thirty-first Day of March One thousand eight hundred and fifty-seven;

61,067*l.* for the Privy Council, Board of Trade, &c.;

and any Sum or Sums of Money not exceeding Sixty-one thousand and sixty-seven Pounds, to pay the Salaries and Expenses in the Department of Her Majesty's most Honourable Privy Council, and Committee of Privy Council for Trade, including the Railway and Marine Departments, and the Registrar of Merchant Seamen, to the Thirty-first Day of March One thousand eight hundred and fifty-seven;

2,700*l.* for Lord Privy Seal;

and any Sum or Sums of Money not exceeding Two thousand seven hundred Pounds, to pay the Salary of the Lord Privy Seal and the Expenses of his Establishment, to the Thirty-first Day of March One thousand eight hundred and fifty-seven;

24,594*l.* for Office of Paymaster General;

and any Sum or Sums of Money not exceeding Twenty-four thousand five hundred and ninety-four Pounds, to defray the Salaries and Expenses in the Department of Her Majesty's Paymaster General, to the Thirty-first Day of March One thousand eight hundred and fifty-seven;

6,483*l.* for Department of Comp. Gen. of Exchequer;

and any Sum or Sums of Money not exceeding Six thousand four hundred and eighty-three Pounds, to pay the Salaries and Expenses in the Department of the Comptroller General of the Exchequer, to the Thirty-first Day of March One thousand eight hundred and fifty-seven;

23,313*l.* for Office of Commissioners of Works and Public Buildings;

and any Sum or Sums of Money not exceeding Twenty-three thousand three hundred and thirteen Pounds, to pay the Salaries and Expenses of the Office of the Commissioners of Her Majesty's Works and Public Buildings, to the Thirty-first Day of March One thousand eight hundred and fifty-seven;

21,664*l.* for Office of Woods, Forests, &c.;

and any Sum or Sums of Money not exceeding Twenty-one thousand six hundred and sixty-four Pounds to pay the Salaries and Expenses of the Office of Woods, Forests, and Land Revenues, to the Thirty-first Day of March One thousand eight hundred and fifty-seven;

16,447*l.* for Public Records and State Paper Office;

and any Sum or Sums of Money not exceeding Sixteen thousand four hundred and forty-seven Pounds, to pay the Salaries and Expenses of the Department of Public Records, including the State Paper Office, to the Thirty-first Day of March One thousand eight hundred and fifty-seven;

208,993*l.* for Administration of Poor Laws;

and any Sum or Sums of Money not exceeding Two hundred and eight thousand nine hundred and ninety-three Pounds, to defray Expenses connected with the Administration of the Laws relating to the Poor, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Forty-eight thousand eight hundred and twenty-nine Pounds, to defray the Charge of the Establishment of the Mint, including Expenses of the Coinage, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-three thousand one hundred and forty-five Pounds to pay the Salaries and Expenses of the Inspectors of Factories, Mines, &c. to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Five thousand nine hundred and sixty-four Pounds to pay the Salaries of the Department of the Queen's and Lord Treasurer's Remembrancer in the Exchequer, Scotland, of certain Officers in Scotland, and other Charges, formerly paid from the Hereditary Revenue, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six thousand four hundred and thirty-one Pounds, to defray the Charge of Salaries for the Officers and Attendants of the Household of the Lord Lieutenant of Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Fifteen thousand one hundred and sixty-four Pounds, to pay the Salaries and Expenses of the Offices of the Chief Secretary to the Lord Lieutenant of Ireland in Dublin and London, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six thousand nine hundred and twenty-four Pounds, to defray the Charge of the Department of the Paymaster of Civil Services in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand five hundred and fifty-five Pounds, to defray the Salaries and Expenses of the Office of the Inspectors of Lunatic Asylums in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-two thousand five hundred and sixteen Pounds, to pay the Salaries and Expenses of the Board of Public Works in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seventeen thousand seven hundred and ten Pounds, to defray the Expense of the Copyhold, Inclosure, and Tithe Commission, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Eleven thousand seven hundred and ten Pounds, to pay the Imprest Expenses under the Inclosure and Drainage Acts of the Copyhold, Inclosure, and Tithe Commission, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Thirty-eight thousand two hundred and thirty-four Pounds, to pay the Salaries and Expenses in the

48,829*l.* for the Mint;

23,145*l.* for Salaries, &c. of Inspectors of Factories, &c.;

5,964*l.* for Civil Charges, &c., Scotland;

6,431*l.* for Officers, &c. of Lord Lieutenant of Ireland;

15,164*l.* for Chief Secretary, &c., Ireland;

6,924*l.* for Paymaster of Civil Services, Ireland;

2,555*l.* for Inspectors of Lunatic Asylums;

22,516*l.* for Board of Public Works, Ireland;

17,710*l.* for Copyhold, &c. Commission;

11,710*l.* for Imprest Expenses of Copyhold, &c. Commission;

38,234*l.* for General Register Office, England and Wales;

Department of the General Register Office, England and Wales, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three thousand three hundred and eighty-eight Pounds, to pay the Salaries and Expenses in the Department of the General Register Office, Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six thousand six hundred and sixty-five Pounds, to pay the Salaries and Expenses in the Department of the Registrar General of Births, &c., Edinburgh, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Thirteen thousand eight hundred and eighty Pounds, to pay the Salaries and Expenses in the National Debt Office, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand eight hundred and forty Pounds, to defray the Salaries and Expenses of the Establishment under the Public Works Loan Commissioners, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand five hundred and seventy Pounds, to defray the Expenses of the Establishment under the West India Islands Relief Commissioners, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand three hundred and ten Pounds, to pay the contingent Expenses of the Office of the Commissioners in Lunacy, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Nine hundred and eighty-four Pounds, to defray the Salary and Expenses of the General Superintendent of County Roads in South Wales, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand four hundred and five Pounds, to pay the Salaries and Expenses in the Department of the Registrar of Friendly Societies in England, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Thirty-two thousand Pounds, to defray the Charge of Her Majesty's Foreign and other Secret Services, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Four hundred fifty-eight thousand two hundred and seventy-five Pounds, to defray the Expense of Stationery, Printing, and Binding for the several Public Departments, and for Printing, &c. for the Two Houses of Parliament, including the Expense of the Stationery Office, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One hundred forty thousand four hundred and ten Pounds, to defray the Charge
for

3,388*l.* for General Register Office, Dublin;

6,665*l.* for Department of Registrar General of Births, &c. Edinburgh;

13,880*l.* for National Debt Office;

2,840*l.* for Public Works Loan Commission;

1,570*l.* for West India Islands Relief Commission;

1,310*l.* for Lunacy Commission;

984*l.* for General Superintendent of County Roads in South Wales;

1,405*l.* for Department of Friendly Societies in England;

32,000*l.* for Foreign and Secret Services;

458,275*l.* for Stationery, &c. for Public Departments.

140,410*l.* for Postage of Letters on the Public Service;

for Postage of Letters on the Public Service in the several Departments, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Thirty thousand three hundred and sixty-one Pounds, to pay the Salaries and Expenses in the Department of the Commissioners for auditing the Public Accounts, to the Thirty-first Day of March One thousand eight hundred and fifty-seven.

30,361*l.* for Department of Commissioners for auditing Public Accounts;

Civil Services.—Class 3.

Civil Services, *Class* 3.

XXIII. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Thirty-six thousand and forty-one Pounds, to defray Law Charges, and the Salaries, Allowances, and incidental Expenses in the Office of the Solicitor for the Affairs of Her Majesty's Treasury, including Prosecutions relating to Coin, also the Salary and Allowance of Counsel for advising the Treasury on Matters relating to the Slave Trade, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two hundred and fifty thousand Pounds, to defray, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Expenses of Prosecutions at Assizes and Quarter Sessions, formerly paid out of County Rates; and any Sum or Sums of Money not exceeding One thousand one hundred Pounds towards defraying the Expenses of the Crown Office, Chancery, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand and fifty Pounds, towards defraying the Expenses of the Crown Office, Queen's Bench, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Sixteen thousand three hundred and forty Pounds, to defray, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Expenses incurred by Sheriffs, and the Deficiency of the Fees in the Office of the Queen's Remembrancer in the Exchequer; and any Sum or Sums of Money not exceeding Six thousand four hundred and eighteen Pounds, to defray the Salaries and Expenses in the Department of the Registrar of the Admiralty, and the Expenses of the Admiralty Court, Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Eight thousand two hundred and fifteen Pounds, to defray the Salaries and Expenses of the Commissioners of the Insolvent Debtors Court, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Thirteen thousand eight hundred and fifty Pounds, to defray the Salaries of the Treasurers of County Courts, to the Thirty-first Day of March One thousand

There shall be issued 36,041*l.* for Office of Solicitor to the Treasury, including Prosecutions relating to Coin, &c.

250,000*l.* for Prosecutions at Assizes and Quarter Sessions;

1,100*l.* for Crown Office, Chancery;

2,050*l.* for Crown Office, Queen's Bench;

16,340*l.* for Expenses incurred by Sheriffs and Deficiency of Fees in the Exchequer;

6,418*l.* for Department of Registrar of the Admiralty;

8,215*l.* for Insolvent Debtors Court;

13,850*l.* for Treasurers of County Courts;

29,348*l.* for Police Courts of the Metropolis;

102,306*l.* for Metropolitan Police;

3,615*l.* for Queen's Prison;

3,342*l.* for Lord Advocate and Solicitor General, Scotland;

17,551*l.* for Salaries, Court of Session, Scotland;

9,568*l.* for Court of Justiciary, Scotland;

6,400*l.* for Criminal Prosecutions by Lord Advocate;

1,415*l.* for certain Officers in the Exchequer in Scotland;

57,000*l.* for Criminal Prosecutions, &c. in Scotland;

12,167*l.* for Procurators Fiscal in Scotland;

12,594*l.* for Sheriffs Clerks, Scotland;

thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-nine thousand three hundred and forty-eight Pounds, to defray the Expenses of the Police Courts of the Metropolis, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One hundred and two thousand three hundred and six Pounds, towards defraying the Expenses of the Metropolitan Police, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three thousand six hundred and fifteen Pounds, to defray the Salaries and Expenses of the Queen's Prison, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three thousand three hundred and forty-two Pounds, to defray the Charge for the Salaries of the Lord Advocate and of the Solicitor General, Scotland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seventeen thousand five hundred and fifty-one Pounds, to defray the Salaries and Expenses of the Court of Session in Scotland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Nine thousand five hundred and sixty-eight Pounds, to defray the Salaries and Expenses of the Court of Justiciary in Scotland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six thousand four hundred Pounds, to defray the Expenses of Criminal Prosecutions carried on under the Authority of the Lord Advocate, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand four hundred and fifteen Pounds, to defray the Salaries and Expenses in the Legal Branch of the Office of Queen's and Lord Treasurer's Remembrancer in Exchequer in Scotland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Fifty-seven thousand Pounds, to defray, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Charge of Sheriffs and Stewards, including Procurators Fiscal, not paid by Salaries, and the Expenses of Criminal Prosecutions in Sheriff Courts in Scotland; and any Sum or Sums of Money not exceeding Twelve thousand one hundred and sixty-seven Pounds, to defray the Salaries of such of the Procurators Fiscal in Scotland as are no longer paid by Fees, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twelve thousand five hundred and ninety-four Pounds to defray the Salaries of such of the Sheriffs Clerks, Scotland, as are not chargeable on the Revenues of Customs and Excise, to the Thirty-first Day of March One thousand eight hundred and fifty-seven;

and any Sum or Sums of Money not exceeding Two thousand three hundred Pounds, to defray, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Salary of the Solicitor of the Crown, and Expenses in Matters of Tithes, and the Expenses of the Agent of the Great Officers of State in maintaining Rights of the Crown in Civil Actions, &c. in Scotland; and any Sum or Sums of Money not exceeding Twelve thousand two hundred and forty-nine Pounds, to defray the Salaries and Expenses of the several Offices in Her Majesty's General Register House, Edinburgh, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand one hundred and twenty-four Pounds, to defray the Salaries and Expenses in the Department of the Commissary Clerk, Edinburgh, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Fifty-one thousand seven hundred and twenty Pounds, to defray the Expense of Criminal Prosecutions and other Law Charges in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand two hundred and ninety-four Pounds, to defray the Salaries of certain Officers of the Court of Chancery in Ireland formerly charged on the Consolidated Fund, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand three hundred and thirty-eight Pounds, to defray the Salary of the Crier, and the incidental Expenses of the Court of Queen's Bench in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand four hundred and twenty-one Pounds, to defray the Salaries of certain Officers, and the incidental Expenses of the Court of Common Pleas in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand five hundred and eighty Pounds, to defray the Salaries of certain Officers and the incidental Expenses of the Court of Exchequer in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two hundred Pounds, to defray the Salary of the Clerk to the Taxing Officers for the Three Law Courts, Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Five thousand two hundred and thirty-two Pounds, to defray the Salaries of the Registrars to the Judges in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand seven hundred and sixty-six Pounds, to defray certain Salaries and the incidental Expenses in the Office for the Registration of Judgments

2,300*l.* for Salaries of Law Officers in Scotland;

12,249*l.* for General Register House, Edinburgh;

1,124*l.* for Department of Commissary Clerk, Edinburgh;

51,720*l.* for Criminal Prosecutions, Ireland;

1,294*l.* for Court of Chancery, Ireland;

1,338*l.* for Court of Queen's Bench, Ireland;

1,421*l.* for Court of Common Pleas, Ireland;

1,580*l.* for Court of Exchequer, Ireland;

200*l.* for Clerk to Taxing Officers for Law Courts, Ireland;

5,232*l.* for Registrars to Judges, Ireland;

1,766*l.* for Office for Registration of Judgments in Ireland;

in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three hundred Pounds, to defray the Fees to Advocates appointed to act as Commissioners of the High Court of Delegates in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three thousand and sixty-six Pounds, to defray the Salaries and Expenses of the Insolvent Debtors Court in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two hundred and sixty-seven Pounds, to defray the Salary of the Clerk to the Court of Errors in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand six hundred Pounds, to defray the Salaries of the Police Justices of Dublin Metropolis, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Thirty-five thousand Pounds, towards defraying the Expense of the Divisional Police Courts and the Metropolitan Police, Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six hundred thirty-nine thousand one hundred Pounds, to defray the Expense of the Constabulary Force in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand eight hundred and thirty-two Pounds, to defray the Expenses of the Four Courts, Marshalsea Prison, Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Sixteen thousand seven hundred and eighty-three Pounds, to defray the Charge of Inspection and General Superintendence over all the Prisons in the United Kingdom, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Four hundred fifteen thousand nine hundred and six Pounds, to defray the Charge of Government Prisons and Convict Establishments at home, to the Thirty-first day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One hundred sixty-one thousand five hundred and ninety-five Pounds, to defray the Expense of the Maintenance of Prisoners in County Gaols, Reformatory Institutions, and Lunatic Asylums, and the Expenses of the Removal of Convicts, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-five thousand four hundred and eighty-five Pounds, to defray Expenses connected with the Transportation of Convicts, &c., to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two

300*l.* for Fees to Advocates, Court of Delegates, Ireland;

3,066*l.* for Salaries, &c. of Insolvent Debtors Court, Ireland;

267*l.* for Salary of Clerk to Court of Errors, Ireland;

1,600*l.* for Salaries of Police Justices, Dublin;

35,000*l.* for Metropolitan Police, Dublin;

639,100*l.* for Constabulary Force, Ireland;

1,832*l.* for Four Courts, Marshalsea, Dublin;

16,783*l.* for General Superintendence of Prisons, &c.;

415,906*l.* for Government Prisons and Convict Establishments at home;

161,595*l.* for Maintenance of Prisoners and Removal of Convicts;

25,485*l.* for Transportation of Convicts;

286,605*l.* for Convict Esta-

Two hundred eighty-six thousand six hundred and five Pounds, to defray the Expense of the Convict Establishments in the Colonies, to the Thirty-first day of March One thousand eight hundred and fifty-seven.

blishments in the Colonies.

Civil Services.—Class 4.

Civil Services, *Class* 4.

XXIV. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Four hundred fifty-one thousand two hundred and thirteen Pounds, for Public Education in Great Britain, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Sixty-four thousand six hundred and seventy-five Pounds, to defray the Expenses of the General Management of the Department of Science and Art, of the Schools throughout the Kingdom in connexion with the Department, and of the Geological Surveys of Great Britain and Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two hundred twenty-seven thousand six hundred and forty-one Pounds, for Public Education in Ireland, under the Charge of the Commissioners of National Education in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six hundred and five Pounds, to pay the Salary of the Secretary and the Expenses of the Office of the Commissioners of Education in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three thousand eight hundred and seventy-nine Pounds, towards defraying the Expenses of the University of London, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seven thousand five hundred and ten Pounds, to pay Grants to Scottish Universities formerly defrayed from the Hereditary Revenues of the Crown, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand four hundred and fifteen Pounds, to defray the Expenses of the Queen's University in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Four thousand eight hundred Pounds, to defray certain Expenses of the Queen's Colleges in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Five hundred and thirty-three Pounds, towards defraying the Expense of the Royal Irish Academy, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum

There shall be issued 451,213*l.* for Public Education in Great Britain;

64,675*l.* for Department of Science and Art, and Geological Surveys of the United Kingdom;

227,641*l.* for Education, Ireland;

605*l.* for Salary of Secretary to Commissioners of Education, Ireland;

3,879*l.* for London University;

7,510*l.* for Grants to Scottish Universities;

2,415*l.* for Queen's University, Ireland;

4,800*l.* for Expenses, Queen's Colleges, Ireland;

533*l.* for Royal Irish Academy;

300*l.* for Royal Hibernian Academy;

2,975*l.* for Royal Belfast Academical Institution, &c.;

25,643*l.* for new Buildings, &c., at British Museum;

17,639*l.* for National Gallery;

4,609*l.* for Magnetic Observatories, &c.;

500*l.* for Royal Geographical Society;

2,000*l.* for Royal Society;

60,000*l.* for Salaries and Expenses of British Museum.

or Sums of Money not exceeding Three hundred Pounds, towards defraying the Expense of the Royal Hibernian Academy, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand nine hundred and seventy-five Pounds, to pay the Salaries of the Theological Professors and the incidental Expenses of the General Assembly's College at Belfast, and Retired Allowances to Professors of the Belfast Academical Institution, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-five thousand six hundred and forty-three Pounds, to defray the Expense of new Buildings and Fittings at the British Museum, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seventeen thousand six hundred and thirty-nine Pounds, to defray the Expenses of the National Gallery, including the Purchase of Pictures, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Four thousand six hundred and nine Pounds, to defray the Expenses of Magnetic Observations abroad, including the Superintendent's Establishment at Woolwich, also for Observations and Services under the Direction of the Astronomer Royal, and for Meteorological Observations at Sea, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Five hundred Pounds, to enable the Royal Geographical Society to provide Accommodation for their Meetings, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand Pounds, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven, to enable the Royal Society to carry on certain Experiments for public Objects; and any Sum or Sums of Money not exceeding Sixty thousand Pounds, to defray the Salaries and Expenses of the British Museum Establishment, to the Thirty-first Day of March One thousand eight hundred and fifty-seven.

CIVIL SERVICES. *Class 5.*

CIVIL SERVICES.—Class 5.

There shall be issued 4,050*l.* for Civil Establishment of the Bermudas;

7,397*l.* for Ecclesiastical Establishment, British N.A. Provinces;

XXV. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Four thousand and fifty Pounds, towards defraying the Charge of the Civil Establishment of the Bermudas, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seven thousand three hundred and ninety-seven Pounds, to defray the Charge of the Ecclesiastical Establishment of the British North American Provinces, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Four thousand seven hundred and thirteen Pounds, to defray the Charge of the Indian Department in Canada, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-four thousand seven hundred and twenty-eight Pounds, to defray the Charge of the Salaries of the Governors, Lieutenant Governors, and others in the West Indies and certain other Colonies, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-four thousand three hundred Pounds, to defray the Salaries, Allowances, and Contingencies of the Stipendiary Justices in the West India Colonies and the Mauritius, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Ten thousand two hundred and thirty Pounds, towards defraying the Charge of the Civil Establishments on the Western Coast of Africa, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Ten thousand eight hundred and fifty-six Pounds, to defray Charges connected with the Island of Saint Helena, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Nine hundred and sixty Pounds, towards defraying the Charge of Heligoland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand nine hundred and one Pounds, towards defraying the Charge of the Falkland Islands, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Fourteen thousand five hundred and eighty-two Pounds, to defray the Charge of the Emigration Board, and of the Emigration Officers at the different Ports of this Kingdom, also to defray certain Expenses connected with Emigration, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twelve thousand Pounds, to defray, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, Expenses incurred for the Support of captured Negroes and liberated Africans, and other Charges under the Acts for the Abolition of the Slave Trade; and any Sum or Sums of Money not exceeding Eleven thousand and fifty Pounds, to pay, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Salaries and Expenses of the Mixed Commissions established under the Treaties with Foreign Powers for suppressing the Traffic in Slaves; and any Sum or Sums of Money not exceeding One hundred sixty-seven thousand four hundred and ninety-eight Pounds, to defray the Expense of the

4,713*l.* for Indian Department in Canada;

24,728*l.* for Salaries of Governors, &c. of West India Colonies, &c.;

24,300*l.* for Salaries, &c. of Stipendiary Justices in W.I. Colonies and the Mauritius;

10,230*l.* for Civil Establishments on the Western Coast of Africa;

10,856*l.* for St. Helena;

960*l.* for Heligoland;

2,901*l.* for Falkland Islands;

14,582*l.* for Colonial Land and Emigration Board, &c.;

12,000*l.* for Support of captured Negroes, &c.;

11,050*l.* for Commissions for suppressing the Slave Trade;

167,498*l.* for the Consular Establishments abroad;

25,000*l.* for Missions abroad.

Consular Establishments abroad, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-five thousand Pounds for the Extraordinary Disbursements of Her Majesty's Embassies and Missions abroad, to the Thirty-first Day of March One thousand eight hundred and fifty-seven.

CIVIL SERVICES. *Class* 6.

CIVIL SERVICES.—Class 6.

There shall be issued 146,537*l.* for Superannuations, &c. to Public Officers;

2,270*l.* for Toulonese and Corsican Emigrants, &c.;

2,000*l.* for National Vaccine Institution;

325*l.* for Refuge for Destitute;

4,000*l.* for Polish Refugees, &c.;

4,371*l.* to pay Miscellaneous Allowances;

2,985*l.* for Treasurers of Public Infirmaries, Ireland;

1,295*l.* for Foundling Hospital Department, House of Industry, Dublin;

11,790*l.* for House of Industry, Dublin;

XXVI. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding One hundred forty-six thousand five hundred and thirty-seven Pounds, to defray the Charge of Superannuation Allowances and Compensations to Persons formerly employed in the Public Service, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand two hundred and seventy Pounds, to enable Her Majesty to grant Relief, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, to Toulonese and Corsican Emigrants, St. Domingo Sufferers, American Loyalists, and others who have heretofore received Allowances from Her Majesty; and any Sum or Sums of Money not exceeding Two thousand Pounds, to defray the Expense of the National Vaccine Establishment, in the Year One thousand eight hundred and fifty-six; and any Sum or Sums of Money not exceeding Three hundred and twenty-five Pounds, towards the Support of "The Refuge for the Destitute," in the Year One thousand eight hundred and fifty-six; and any Sum or Sums of Money not exceeding Four thousand Pounds, for Payment of the Subsistence of the Polish Refugees, and Allowances to distressed Spaniards, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Four thousand three hundred and seventy-one Pounds, to pay, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, Miscellaneous Allowances formerly defrayed from the Civil List, the Hereditary Revenues, &c., and for which no permanent Provision has been made by Parliament; and any Sum or Sums of Money not exceeding Two thousand nine hundred and eighty-five Pounds, to pay, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, to the Treasurers of Public Infirmaries in Ireland the Allowances granted under certain Acts of Parliament; and any Sum or Sums of Money not exceeding One thousand two hundred and ninety-five Pounds, to defray the Expense of the Foundling Hospital Department of the House of Industry, Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Eleven thousand seven hundred and ninety Pounds, towards defraying the Expense of the House of Industry, &c., Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Five hundred Pounds, towards defraying the Expense of the Female Orphan House, Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand two hundred and fifteen Pounds, to defray the Expense of the Westmoreland Lock Hospital, Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Five hundred Pounds, towards defraying the Expense of the Lying-in Hospital, Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seven hundred and ninety-five Pounds, towards defraying the Expense of Doctor Steevens' Hospital, Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand nine hundred Pounds, towards defraying the Expense of the House of Recovery and Fever Hospital, Cork Street, Dublin, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six hundred Pounds, towards defraying the Expense of the Meath Hospital and County of Dublin Infirmary, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Thirty-nine thousand and fifty-four Pounds, to defray the Expense of Non-conforming, Seceding, and Protestant Dissenting Ministers in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six thousand and sixty-two Pounds, to pay, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, Charitable Allowances charged on the Concordatum Fund in Ireland, and other Allowances and Bounties formerly defrayed from Grants for the Lord Lieutenant's Household, Civil Contingencies, &c.

500*l.* for Female Orphan House, Dublin;

1,215*l.* for Westmoreland Lock Hospital, Dublin;

500*l.* for Lying-in Hospital, Dublin;

795*l.* for Dr. Steevens' Hospital, Dublin;

1,900*l.* for House of Recovery, &c., Dublin;

600*l.* for Meath Hospital and County of Dublin Infirmary;

39,054*l.* for Protestant Dissenting Ministers, Ireland;

6,062*l.* for Charitable Allowances, &c., Ireland.

CIVIL SERVICES.—Class 7.

CIVIL SERVICES, *Class* 7.

XXVII. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Eighteen thousand six hundred and twenty-six Pounds, to defray the Expense of the General Board of Health, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three thousand four hundred and sixty-one Pounds, to defray a Portion of the Expenses of the Ecclesiastical Commissioners for England, to the Thirty-first Day of

There shall be issued 18,626*l.* for General Board of Health;

3,461*l.* for Ecclesiastical Commissioners, England;

16,022*l.* for Charity Commission for England and Wales;

1,911*l.* for Statute Law Commission;

6,900*l.* for Civil Service Commission;

8,152*l.* for sundry temporary Commissions;

21,842*l.* for Compensations, &c. payable under the Patent Law Amendment Act;

13,500*l.* for Board of Fisheries, Scotland;

2,000*l.* for Annuity to Board of Manufactures, Scotland;

5,000*l.* for Commissioners of Highland Roads and Bridges;

12,000*l.* for Bounties on Slaves and Slave Vessels captured;

900*l.* for Publication of Ancient Laws of Ireland;

9,000*l.* for Pay of Process Servers, Ireland;

70,900*l.* for Pensions to Masters and Seamen, &c.

March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Sixteen thousand and twenty-two Pounds, to defray the Charge of the Salaries and Expenses of the Charity Commission for England and Wales, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand nine hundred and eleven Pounds, to defray the Charge of the Salaries and Expenses of the Statute Law Commission, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six thousand nine hundred Pounds, to defray the Charge of the Salaries and Expenses of the Civil Service Commissioners, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Eight thousand one hundred and fifty-two Pounds, to defray the Charge of the Salaries and Expenses of sundry temporary Commissions, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-one thousand eight hundred and forty-two Pounds, to defray the Fees, Salaries, and Compensations payable under the Provisions of the Patent Law Amendment Act, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Thirteen thousand five hundred Pounds, to pay the Salaries and Expenses of the Board of Fisheries in Scotland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand Pounds, to defray, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Charge on account of the Annuity to the Board of Manufactures in Scotland, in discharge of Equivalents under the Treaty of Union; and any Sum or Sums of Money not exceeding Five thousand Pounds, on account of the Commissioners of Highland Roads and Bridges, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twelve thousand Pounds, to pay the Bounties on Slaves and the Tonnage Bounties on Slave Vessels captured, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Nine hundred Pounds, to defray the Expense of the Commission appointed to superintend the Publication of the Ancient Laws and Institutes of Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Nine thousand Pounds, to defray the Expense of the Pay of the Process Servers in Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seventy thousand nine hundred Pounds, to defray the Charge for Pensions to Masters and Seamen of the Merchant Service, and to their Widows and Children, under the Merchant Seamen's Fund Act, and for Compensation to the late Officers of the Trustees of the Merchant Seamen's Fund, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand three hundred and one Pounds, to defray the Salaries and Expenses of the Office for the Registration of Joint Stock Companies, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand seven hundred and ninety Pounds, to defray the Charge of the Salaries and Expenses in the Registration of Designs Office, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-nine thousand Pounds, to defray the Charge for Payments on account of the Difference of Dues payable by British or Foreign Vessels under Treaties of Reciprocity, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three thousand eight hundred Pounds, to pay the Salaries of Inspectors of Corn Returns, and the Expenses defrayed by Counties for Corn Returns, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seventeen thousand Pounds, to defray in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Charges on account of distressed British Seamen abroad; and any Sum or Sums of Money not exceeding Three thousand six hundred Pounds, to defray Expenses connected with Quarantine Arrangements, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seventeen thousand eight hundred and fifty Pounds, to defray the Charge of the Remuneration to Revising Barristers in England and Wales, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Seven thousand three hundred and thirty-eight Pounds, to defray the Charge for the Constabulary Police at the Military Camp of Aldershot, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three thousand Pounds, to defray the Expenses of the Inspection of Burial Grounds in England and Wales, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-one thousand two hundred and sixty-two Pounds, towards defraying the Expense of forming a Park at Battersea, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Thirty-five thousand seven hundred and fifty-three Pounds, towards

under the Merchant Seamen's Fund Act;

2,301*l.* for Registration of Joint Stock Companies;

1,790*l.* for Registration of Designs Office;

29,000*l.* for Payments under Treaties of Reciprocity;

3,800*l.* for Inspectors of Corn Returns, &c.;

17,000*l.* for distressed Seamen abroad;

3,600*l.* for Expenses of Quarantine Arrangements;

17,850*l.* for Revising Barristers in England and Wales;

7,338*l.* for Constabulary Police at Military Camp at Aldershot;

3,000*l.* for Inspection of Burial Grounds in England and Wales;

21,262*l.* for Battersea Park

35,753*l.* for Embankment, &c. between Battersea and

Vauxhall Bridges, &c.;

1,544*l.* for Improvements at Windsor;

1,500*l.* for Works at Carisbrook Castle, Isle of Wight;

9,000*l.* for Preservation of Public Records;

2,084*l.* for Works and Furniture at British Seamen's Hospital at Constantinople;

6,000*l.* for Works at Spurn Point, River Humber;

627*l.* for Improvement of Navigation of Menai Straits;

1,053*l.* for certain Professors at Cambridge;

15,529*l.* for Incumbered Estates Commission, Ireland;

3,000*l.* for Irish Census;

3,000*l.* for Gallery of Arts in Dublin;

29,400*l.* for Lighthouses abroad;

defraying, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Expense of constructing an Embankment and public Roadway between Battersea and Vauxhall Bridges, and an Approach from Sloane Street to Chelsea Bridge; and any Sum or Sums of Money not exceeding One thousand five hundred and forty-four Pounds to defray, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Charge for Services connected with the Improvements at Windsor; and any Sum or Sums of Money not exceeding One thousand five hundred Pounds, to defray the Charge for Works at Carisbrook Castle, Isle of Wight, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Nine thousand Pounds, towards defraying, to the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Expense of providing and fixing Wire Doors, Ends, and Divisions to the Presses, for the better Security of the Records and Documents in the General Repository for Public Records; and any Sum or Sums of Money not exceeding Two thousand and eighty-four Pounds, towards defraying the Expense of Works and Furniture at the British Seamen's Hospital at Constantinople, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six thousand Pounds, to defray the Cost of certain Works at Spurn Point, River Humber, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six hundred and twenty-seven Pounds, to defray the Cost of Works for the Improvement of the Navigation of the Menai Straits, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding One thousand and fifty-three Pounds, to defray the Charge of the Salaries of certain Professors in the University of Cambridge, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Fifteen thousand five hundred and twenty-nine Pounds, to defray the Charge of the Salaries and Expenses of the Incumbered Estates Commission, Ireland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three thousand Pounds, to complete, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Expenses of the Irish Census, One thousand eight hundred and fifty-one; and any Sum or Sums of Money not exceeding Three thousand Pounds, towards the Erection of a Gallery of Arts in Dublin, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twenty-nine thousand four hundred Pounds, to defray, in the Year ending the Thirty-first

Day of March One thousand eight hundred and fifty-seven, the Expense of erecting and maintaining certain Lighthouses abroad; and any Sum or Sums of Money not exceeding Fifteen thousand Pounds, to defray, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Expense of the Australian Expedition; and any Sum or Sums of Money not exceeding Seventeen thousand five hundred Pounds, to defray, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Charge of erecting at Scutari a Public Monument to the Memory of those who have fallen during the War with Russia; and any Sum or Sums of Money not exceeding Three thousand six hundred and ninety-one Pounds, to defray, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven, pecuniary Claims arising out of Arrangements connected with the Orange River Territory (Cape of Good Hope); and any Sum or Sums of Money not exceeding Six thousand nine hundred and twelve Pounds, towards defraying the Expense of Works, Furniture, Fittings, &c. for the British Embassy Houses abroad, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Eight hundred and twenty-seven Pounds, for the Maintenance of a British Protestant Cemetery at Madrid, to the Thirty-first Day of March One thousand eight hundred and fifty-seven.

15,000*l.* for Australian Expedition;

17,500*l.* for a Public Monument at Scutari;

3,691*l.* for a Arrangements connected with Orange River Territory;

6,912*l.* for British Ambassador's Houses abroad;

827*l.* for British Protestant Cemetery at Madrid.

Civil Services.—Class 8.

Civil Services. *Class* 8.

XXVIII. Out of all or any the Aids or Supplies aforesaid there shall and may be issued and applied any Sum or Sums of Money not exceeding Forty thousand Pounds, to defray the Cost of executing Public Works, maintaining Educational and Benevolent Institutions, and promoting Civilization among the Native Tribes in South Africa, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Twelve thousand six hundred and thirty-four Pounds, to make good, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven, the Loss on Transactions connected with raising Money for the several Treasury Commissariat Chests, and for Freight of Specie conveyed to the various Stations abroad; and any Sum or Sums of Money not exceeding Six thousand six hundred Pounds, to defray the Cost of collecting Agricultural Statistics in Ireland and Scotland, to the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand Pounds, towards carrying out Measures for the Formation of a Gallery of the Portraits of the most eminent Persons in British History, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or

There shall be issued 40,000*l.* for Public Works, maintaining Institutions, &c.;

12,634*l.* to make good Loss on certain Monetary Transactions;

6,600*l.* for Collection of Agricultural Statistics in Ireland and Scotland;

2,000*l.* for Formation of a Portrait Gallery;

10,000*l.* for removing Science and Art Branch of Educational Department from Marlborough House to Kensington Gore; 2,570*l.* for forming a new Road through Holyrood Park; 6,184*l.* to Patrick Boyle; 4,500*l.* for forming an Entrance to St. James's Park from Pall Mall; 3,500*l.* for erecting a Suspension Bridge over Inclosure in St. James's Park.

Sums of Money not exceeding Ten thousand Pounds, to defray the Cost of removing the Science and Art Branch of the Education Department of the Council Office from Marlborough House to Kensington Gore, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Two thousand five hundred and seventy Pounds, to defray the Cost of forming a new Road through Holyrood Park to Duddingstone, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Six thousand one hundred and eighty-four Pounds, to pay, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven, Compensation to Mr. Patrick Boyle on the Surrender of his patent Office of Clerk of Justiciary in Scotland; and any Sum or Sums of Money not exceeding Four thousand five hundred Pounds, to defray the Cost of forming an Entrance to Saint James's Park from Pall Mall, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven; and any Sum or Sums of Money not exceeding Three thousand five hundred Pounds, to defray the Cost of erecting a Suspension Bridge for Foot Passengers over the Water in the Inclosure in Saint James's Park, in the Year ending the Thirty-first Day of March One thousand eight hundred and fifty-seven.

Supplies to be applied only for the Purposes aforesaid.

XXIX. The said Aids and Supplies provided as aforesaid shall not be issued or applied to any Use, Intent, or Purpose whatsoever other than the Uses, Intents, and Purposes before mentioned, or for the other Payments, Appropriation, or Application directed to be made or satisfied thereout by any Act or Acts, or any particular Clause or Clauses for that Purpose contained in any other Act or Acts of this Session of Parliament.

Expenditure for Navy, Army, and Ordnance Services respectively to be confined to the separate Services for which granted.

XXX. The respective Departments charged with the detailed Application of the Sums granted by this Act for Navy and Army Services shall confine the Expenditure of their respective Departments within the particular Amounts appropriated to each of the separate Services comprised in the Sum of Sixteen millions five hundred sixty-eight thousand six hundred and fourteen Pounds for Naval Services; and in the Sum of Eight millions seven hundred eighty-nine thousand and ninety-nine Pounds for defraying the Charge for Wages of Artificers, Labourers, and others employed at home and abroad, and the Charge of the Supplies of Clothing, Barrack Furniture, &c., Provisions, Forage, Fuel, and Light, and the Charge of Stores for Land and Sea Service, and the Charge of Works, Buildings and Repairs at home and abroad; and in the Sum of Eleven millions six hundred eighty-eight thousand nine hundred and thirty-five Pounds for all other

Treasury may, on Application, alter the proportionate Amounts for such separate Services, provided the total Grant to each Department be not exceeded.

other Army Services: Provided always, that if the Exigencies of the Public Service shall render it indispensably necessary to alter the Proportions assigned to any of the separate Services comprised in the said aggregate Sums granted by this Act for Naval Services or for Army Services, the Department in which such Necessity shall have arisen shall represent the Circumstance which may have led to it in Writing to the Commissioners of Her Majesty's Treasury, and it shall be lawful for such Department, on Her Majesty's Pleasure to that Effect being signified by the Commissioners of Her Majesty's Treasury, to apply in aid of the deficient Grant a further limited Sum out of any Surplus or Surpluses under other Heads of Service in the same Department: Provided always, that the aggregate Sum of Sixteen millions five hundred sixty-eight thousand six hundred and fourteen Pounds, granted by this Act for Naval Services, or the aggregate Sums of Eight millions seven hundred eighty-nine thousand and ninety-nine Pounds and Eleven millions six hundred eighty-eight thousand nine hundred and thirty-five for the respective Army Services specified, shall not be exceeded.

Rules to be observed in the Application of the Sum appropriated to Half Pay.

XXXI. And as to the Sum of Three hundred and seventy-two thousand Pounds, being the Proportion of the Sum of Five hundred nineteen thousand and ninety-four Pounds by this Act appropriated to the Pay of reduced and retired Officers, which is applicable to the Half Pay of Officers of Her Majesty's Forces, it is hereby enacted and declared, That the Rules hereafter prescribed shall be duly observed in the Application of the said Half Pay; (that is to say,) that no Person shall have or receive any Part of the same without making and subscribing a Declaration to such Purport and Effect as shall be required in that Behalf by Her Majesty's Warrants directing the Issue of the Half Pay to be received; that no Person shall have or receive any Part of the same who was under the Age of Sixteen Years at the Time when the Regiment, Troop, or Company in which he served was reduced; that no Person shall have or receive any Part of the same who did not do actual Service in some Regiment, Battalion, Troop, or Company in Her Majesty's Service, except in Cases in which the Commission was received under Circumstances which did not, according to the Regulations of the Army, require the Officer to serve; that no Person shall have or receive any Part of the same who has resigned his Commission, and has had no Commission since; that no Part of the same shall be allowed to any Person by virtue of any Warrant or Appointment, except to such Person as would have been otherwise entitled thereto as a reduced Officer; that no Person shall have or receive any Part of the same for any Time during which he shall hold any other Military Place or Employment of Profit under Her Majesty, or in Her Majesty's Colonies or Possessions beyond the Seas, except on the Staff or in Garrison, and that in such excepted Cases, or in Cases of his holding any Military Place or Employment of Profit under another Government, no Officer shall receive any Part of his Half Pay unless with Her Majesty's Approbation, to be signified by the Secretary-at-War to the Paymaster General, and the Officer claiming the Half Pay in pursuance of such Approbation shall specify in his Declaration the other Military Place or Employment of Profit on the Staff or in Garrison which he may hold or have held under Her Majesty, or in the Colonies or Possessions of Her Majesty beyond the Seas, or under any other Government; that no Person who shall, on or before the Twenty-eighth Day of July One thousand eight hundred and twenty-eight, have held any Civil Place or Employment of Profit under Her Majesty, or in the Colonies or Possessions of Her Majesty beyond the Seas, or under any other Government, shall have or receive any Part of the same for any Time during which he shall hold any such Civil Place or Employment of Profit under Her Majesty, or in the Colonies or Possessions of Her Majesty beyond the Seas, or under any other Government, except in Cases in which the same shall not exceed Three Times the Amount of the highest Rate of Half Pay attached to the Rank in virtue of which he claims to receive Half Pay, or as herein-after mentioned, nor in any such excepted Cases unless Her Majesty's special Approbation be signified as aforesaid, and the Officer claiming the Half Pay in pursuance of such Approbation shall signify in his Declaration the Civil Place or Employment of Profit which he may hold or have held as aforesaid; but if the net annual Emoluments of such Civil Place or Employment shall exceed Three Times the Amount of Half Pay as aforesaid, and shall fall short of Four Times that Amount, then it shall be lawful for the Paymaster General, with Her Majesty's Approbation, signified by the Secretary-at-War as aforesaid, to issue, on or before the Twenty-fourth Day of December One thousand eight hundred and fifty-six, so much of the Half Pay claimed by any such Officer as shall, together with the net annual Emoluments of the Civil Place or Employment, be equal to Four Times the Amount of such Half Pay, and the Officer claiming the Half Pay in pursuance of such Approbation shall specify in his Declaration the Civil Place or Employment of Profit which he may have held as aforesaid, and the actual Amount of the Emoluments thereof, in such Manner and Form, and calculated up to such Period or Periods, as shall be required by the Secretary-at-War; but no Person who, after the Twenty-eighth Day of June One thousand eight hundred and twenty-eight, has been appointed to any Civil Place or Employment of Profit (except in Her Majesty's Household) under Her Majesty, or in the Colonies or Possessions of Her Majesty beyond the Seas, or under any other Government, shall have or receive any Part of the same for any Time during which he shall hold any such Civil Place or Employment of Profit (except as aforesaid) under Her Majesty beyond the Seas, or under any other Government, other than that of a Barrack Master under the Secretary of State for War, who shall, under the Restrictions before mentioned, be entitled to receive his Half Pay: Provided always, that nothing in this Act contained shall prevent any Person from receiving his Half Pay who shall be entitled to the same under any Act or Acts relating to the General or Local Militia, or to the Yeomanry or Volunteers, but that every such Person shall receive the same according to the Provisions of any such Act or Acts; and also every Surgeon, Serjeant Major, Serjeant, Corporal, and Private serving in the General or Local Militia, or in any Corps of Yeomanry or Volunteers, in Great Britain or Ireland, may and shall receive any Half Pay, together with any Pay in the General or Local Militia, or Yeomanry or Volunteers, upon making and subscribing a Declaration in any Case in which an Oath or Declaration shall be required in and by any Act or Acts, or specified in any Warrant of Her Majesty, as the Case may be, and stating in such Declaration the Commission or Employment which he held in the General or Local Militia, the Yeomanry or Volunteers: Provided always, that from and after the First Day of January One thousand eight hundred and fifty-seven it shall be lawful for the Paymaster General to issue the Half Pay or any Portion thereof to any Officer appointed to Civil Place or Employment of Profit under Her Majesty or any other Government, since the Twenty-eighth Day of July One thousand eight hundred and twenty-eight, if Her Majesty's Pleasure to that Effect be signified by the Commissioners of Her Majesty's Treasury, through the Secretary-at-War, but such Permission to be granted under the Restrictions before mentioned: Provided always, that an Account shall be laid before Parliament in every Year on or before the First Day of April, if Parliament be then sitting, or, if Parliament shall not then be sitting on the First Day of the sitting of Parliament after the First Day of April, of the Number of Officers who are allowed to receive their Half Pay with Civil Emoluments, specifying the Names of such Officers, with the respective Amounts of their Half Pay, and the Emoluments of their respective Civil Employments, and distinguishing in every such Account the Officers to whom such Half Pay shall have been allowed subsequent to preceding Accounts.

Not to prevent the receiving of Half Pay under any Act relating to the General or Local Militia, &c.

Paymaster General, by Permission of the Treasury, may issue Half Pay to Officers appointed to Civil Offices since July 1828.

An Account of the Number of Officers so receiving Half Pay to be laid before Parliament annually.

XXXII. It shall be lawful for the Commissioners of Her Majesty's Treasury to authorize the receiving Half Pay by Military Officers with Civil Employments in any Cases in which the said Commissioners shall be of opinion that the Employment of such Military Officers in the Colonies or elsewhere in Civil Situations of Responsibility with small

Treasury may authorize Military Officers in Civil Employments to receive Half Pay in certain Cases.

Emoluments will be conducive to Economy, and thereby beneficial to the Public Service, and in every such Case the Officer authorized to receive Half Pay with the Salary or Emolument of any Civil Employment shall signify the same in his Declaration, specifying the Office and the Authority under which he is so allowed to receive his Half Pay.

Persons concerned in issuing, paying, and receiving Money for Payment of Half Pay, without the requisite Oaths, indemnified.
18 & 19 Vict. c. 129.

XXXIII. And whereas a considerable Part of the Money appropriated on account of Half Pay by an Act passed in the Eighteenth and Nineteenth Years of Her present Majesty, intituled "An Act to "apply a Sum out of the Consolidated Fund and the Surplus of "Ways and Means to the Service of the Year One thousand eight "hundred and fifty-five, and to appropriate the Supplies granted in "this Session of Parliament," has been issued without requiring by Persons issuing or paying, and without the taking by the Persons receiving, Half Pay, the Oaths or Declarations prescribed to be taken by Officers claiming Half Pay, and Part of the said Monies has been paid to Officers claiming or entitled to Half Pay, who at the same Time held and may still hold the Situations of and serve respectively as Surgeons, Serjeant Majors, Serjeants, Corporals, or Privates in the General or Local Militia, or Yeomanry or Volunteer Corps in Great Britain or Ireland, and it is expedient that all such Persons should be indemnified: Be it therefore enacted, That all Persons concerned in the advising, authorizing, or directing the issuing or in the issuing of any Half Pay, or any Monies for Half Pay, or in the Application of any Money appropriated by the said Act for that Purpose, or in receiving or being concerned in receiving any Portion of the Money so appropriated for such Half Pay, without requiring or taking the said Oaths or Declarations, or to or on account of any such Officers or Persons as aforesaid, shall be and are hereby fully exonerated and discharged from all Penalties, Forfeitures, Prosecutions, or Proceedings in respect of anything done in relation thereto, in all Cases in which such Half Pay, or Payment for or in respect of such Half Pay, shall have been or may hereafter be issued or received in conformity with the Provisions of the said recited Act or this Act, and the Uses heretofore established or observed in relation to the issuing, paying, and receiving of Half Pay in all other respects, except so far as relates to the demanding, requiring, or taking the said Oaths or Declarations, and all such Payments and Issues of Half Pay which shall have been or may be issued to any such Person as aforesaid shall be deemed valid and effectual Payments, and the Paymaster General, and all other Persons concerned in the issuing and paying the same, shall be and are hereby fully indemnified, and shall be and are hereby fully discharged and exonerated, in respect thereof in all

Accounts relating to such Issues and Payments, anything in any Act or Acts, or any Laws, Rules, or Regulations, to the contrary notwithstanding.

Half Pay allowed to Officers of the Manx Fencibles.

XXXIV. And whereas the Royal Regiment of Manx Fencibles engaged to serve in the said Corps upon a Stipulation contained in the Letter of Service under which they were raised that they should be allowed to receive any Half Pay to which they might be entitled, notwithstanding their holding Subaltern Commissions in the said Corps, but no Provision has been made by Parliament for Payment of such Half Pay, and it is therefore expedient that Provision should be now made for the Arrears of Half Pay to such Officers as aforesaid: Be it therefore enacted, That Officers who were entitled to Half Pay and who accepted or held Subaltern Commissions in the Royal Regiment of Manx Fencibles, shall, notwithstanding their having held the Full Pay of such Commissions, be entitled to receive the Arrears of such Half Pay for any Year or Time in which they shall not have been allowed to receive the same, upon making and subscribing a Declaration before any Person hereby authorized to administer a Declaration to Persons for the Purpose of receiving Half Pay, that they had not in any Year or Time for which such Arrear is claimed any Office or Employment of Profit, Civil or Military, under Her Majesty, besides their Allowance of Half Pay, save and except their Pay as such Subaltern Officer of the Royal Regiment of Manx Fencibles, and the making and subscribing the said Declaration shall, without making and subscribing any other Declaration, be sufficient to entitle such Officer to receive his Half Pay.

Half Pay Allowances to Chaplains of Regiments not holding Ecclesiastical Benefices derived from the Crown.

XXXV. And whereas Chaplains of Regiments who have been placed upon Half Pay have not been allowed to receive such Half Pay in some Years in consequence of being in possession at the Time of certain Ecclesiastical Benefices or Preferments, though the same were not in the Patronage of the Crown: And whereas it has been judged fair and reasonable that they should be allowed to receive such Half Pay, though in possession of Ecclesiastical Preferment, provided the same was private Patronage, and not derived from the Crown, and that they should be entitled to receive the Arrears of Half Pay for such former Years as aforesaid: Be it therefore enacted, That all Chaplains who, after having been placed upon Half Pay, shall have been refused or been unable to receive such Half Pay in any Year in consequence of holding any Ecclesiastical Benefice not derived from or in the Gift of the Crown, shall be entitled to receive the Arrears of such Half Pay for such Year, upon making and subscribing a Declaration before the proper Officer for administering Declarations to Persons for entitling them to receive Half Pay that they held no Ecclesiastical Benefice or Preferment in any Year derived from the Crown, nor any Place or Employment of Profit under Her Majesty, and the making and subscribing the said Declaration shall, without making and subscribing any other Declaration, be sufficient to entitle such Chaplain to receive his Half Pay.

Surplus of Sum by 18 & 19 Vict. c. 129. appropriated to Half Pay Officers to be disposed of as Her Majesty shall direct.

XXXVI. And whereas by the said recited Act passed in the Eighteenth and Nineteenth Years of Her present Majesty the several Supplies which had been granted to Her Majesty as therein mentioned were appropriated to the several Uses and Purposes therein expressed, amongst which any Sum or Sums of Money, not exceeding Three hundred and eighteen thousand Pounds in the whole, was appropriated to be paid on account of Half Pay for the Year One thousand eight hundred and fifty-five, subject nevertheless to such Rules to be observed in the Application of the said Half Pay as in and by the aforesaid Act were prescribed in that Behalf: Now it is hereby provided, enacted, and declared, That so much of the Sum of Three hundred and eighteen thousand Pounds as is or shall be more than sufficient to satisfy the said reduced Officers according to the Rules to be observed in the Application thereof, or any Part of such Overplus, shall and may be disposed of to such Officers who are maimed or have lost their Limbs in the late Wars, or such others as by reason of their long Service or otherwise Her Majesty shall judge to be proper Objects of Charity, or to the Widows or Children of such Officers, according to such Warrant or Warrants under Her Majesty's Royal Sign Manual as shall be signed in that Behalf, anything in this Act or the said Act to the contrary notwithstanding.

Widows, &c. claiming Pensions to make required Declaration.

XXXVII. And as to the Sum of Two hundred twenty thousand four hundred and twenty Pounds by this Act appropriated for defraying the Charge of Pensions to be paid to the Widows of Officers of Her Majesty's Land Forces, and of Allowances on the Compassionate List as aforesaid, it is hereby enacted and declared, That no Widow of an Officer of the Land Forces, and no Person claiming an Allowance on the Compassionate List, or of Allowances as of Her Majesty's Royal Bounty, shall have or receive any Part of the same without making and subscribing a Declaration to such Purport and Effect as shall be required in that Behalf by Her Majesty's Warrant directing the Issue of such Pensions and Allowances so to be received.

Declarations to be made as specified in 5 & 6 W. 4. c. 62.

XXXVIII. Any such Declaration shall and may be made and subscribed before any One or more of Her Majesty's Justices of the Peace, Notary Public, or other Officer now by Law authorized to administer or receive such Declaration, or before any of the Persons appointed to examine Vouchers in the Office of the Paymaster General, in the Manner, and under the Pains, Penalties, and Forfeitures, specified in an Act passed in the Fifth and Sixth Years of His late Majesty for the Abolition of unnecessary Oaths.

Consolidated Fund (Appropriation).

A

B I L L

To apply a Sum out of the Consolidated Fund and the Surplus of Ways and Means to the Service of the Year One thousand eight hundred and fifty-six, and to appropriate the Supplies granted in this Session of Parliament.

(Prepared and brought in by
Mr. FitzRoy, The Chancellor of the Exchequer,
and Mr. Wilson.)

Ordered, by The House of Commons, *to be Printed,*
7 *July* 1856.

[Bill 225.]

Under 5 oz.

12 *February* 1856. 19 Vict.

A

BILL

TO

Repeal the Act 22 Geo. 3., disqualifying Contractors from being elected to or sitting and voting as Members in the House of Commons.

Preamble.

WHEREAS it is expedient to repeal the Act herein-after mentioned: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Act 22 G. 3. repealed.

I. An Act passed in the Twenty-second Year of the Reign of King George the Third, intituled "An Act for restraining any Person "concerned in any Contract, Commission, or Agreement made for the "Public Service from being elected or sitting and voting as a Mem-"ber of the House of Commons," shall be and the same is hereby repealed.

Not to indemnify Persons for Acts done before the passing of this Act.

II. Provided always, That nothing herein contained shall diminish or alter the Liabilities of any Person in respect of any Act done previously to the passing of this Act.

[Bill 29.]

Contractors Disqualification Removal.

A

BILL

To repeal the Act 22 Geo. 3., disqualifying Contractors from being elected to or sitting and voting as Members in the House of Commons.

(*Prepared and brought in by*
Mr. Thomas Mitchell and Mr. Hankey.)

Ordered, by The House of Commons, *to be Printed,*
12 *February* 1856.

[Bill 29.]

Under 1 *oz.*

19 *June* 1856. 19 Vict.

A

BILL

TO

Continue the Corrupt Practices Prevention Act, 1854.

Preamble.

17 & 18 Vict. c. 102.

WHEREAS an Act was passed in the Session of Parliament holden in the Seventeenth and Eighteenth Years of Her Majesty, (Chapter One hundred and two,) "to consolidate "and amend the Laws relating to Bribery, Treating, and undue Influence at Elections of Members of Parliament;" and it was thereby provided that such Act should continue in force for One Year next after the passing thereof, and thenceforth to the End of the then next Session of Parliament: And whereas it is expedient that the said Act should be continued: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Act continued.

I. The said Act shall be continued until the *Tenth Day of August One thousand eight hundred and fifty-seven, and thenceforth to the End of the then next Session of Parliament.*

[Bill 186.]

Corrupt Practices Prevention.

A

BILL

To continue the Corrupt Practices Prevention Act, 1854.

(*Prepared and brought in by*
Viscount Palmerston and Sir George Grey.)

Ordered, by The House of Commons, *to be Printed*,
19 *June* 1856.

[Bill 186.]

Under 1 *oz.*

County Courts Acts Amendment Bill.

ARRANGEMENT OF CLAUSES.

Commencement of Act; Sect. 1.

Enactments in Schedule A. repealed; 2.

Act to be construed with former Acts relating to County Courts; 3.

Time and Mode of doing certain Things to be regulated by Rules of Practice; 4.

Qualification of Deputy Judge; 5.

Where a Court cannot be held on account of Death, Illness, &c. Proceedings to stand adjourned; 6.

Clerk to be called Registrar; 7.

Lord Chancellor may permit Registrar or Assistant Clerk to reside out of the District; 8.

Deputy Judge to continue to act after Death of Judge; 9.

Deputy Registrar to continue to act after Death or Removal of Registrar; 10.

Who to act as Registrar on his Death or Removal without having appointed a Deputy; 11.

Bailiffs shall continue to act after Death of High Bailiff; 12.

Who may discharge Duties of High Bailiff on his Death or Removal; 13.

Bailiff may serve Summons or execute Process within Five hundred Yards of Boundary of District; 14.

Districts of the Courts in the Metropolis to be treated as One District for certain Purposes; 15.

Where Judge of County Court can sue and be sued; 16.

If Officer of Court be Plaintiff in his Court, Defendant may remove the Cause to an adjoining District; 17.

Where Officer of County Court may be sued; 18.

Power to change Venue; 19.

In certain Cases, on Agreement of the Parties, County Court shall have Power to try Causes, although the Matters be beyond its Jurisdiction; 20.

Where Claim reduced by Set-off to 50*l*., Court to have Jurisdiction; 21.

Where Title to any corporeal Hereditament shall come in question, Court, with Consent of Parties at Trial, may decide the Claim; 22.

In certain Cases a Judge of a Superior Court may direct a Cause brought in such Court to be tried in a County Court; 23.

No Action to be brought in County Court on Judgment of Superior Court; 24.

If liquidated Demand exceed 20*l.*, Plaintiff may require Defendant to give Notice of Intention to defend, or suffer Judgment by Default; 25.

If Notice to defend given, Action shall be tried; 26.

In certain Cases of Judgment by Default, Costs may be recovered; 27.

Judge may issue Warrant for bringing up a Prisoner to give Evidence; 28.

Judges to make Rules and Orders for regulating Practice of Courts; to be certified to Lord Chancellor and submitted to Three or more Judges of Superior Courts; 29.

Scale of Costs in certain Proceedings to be framed by the Judges; 30.

Taxation of Costs; 31, 32.

Costs between Attorney and Client; 33.

Till new Scale of Costs and Rules, &c. made, former Practice to continue; 34.

In certain Cases may object to Cause being tried in the County Court; 35.

Certiorari may be granted in certain Cases; 36.

Rule or Summons to show Cause why a Writ of Certiorari or Prohibition should not issue to be Stay of Proceedings; 37.

Notice of Writ of Certiorari or Prohibition having been obtained to be sent to Registrar; 38.

Application for Writ of Prohibition to a Judge shall be finally disposed of by Rule or Order; 39.

Rule or Order substituted for Writ of Mandamus to a Judge or Officer of a County Court; 40.

Refusal of Writ of Certiorari or Prohibition or of Rule or Order in the Nature of a Mandamus by One Court or Judge to be final; 41.

Where Judgment does not exceed 20*l.*, the Judge may order Payment by Instalments; 42.

Priority of Warrants of Execution issuing out of One Court; 43.

Priority of Executions where issued out of Superior Court and County Court; 44.

Summons for Commitment may, by Leave of Court, issue in Court in which Judgment was obtained; 45.

Judgment may be removed if there are no Goods to be taken under it; 46.

Possession of small Tenements may be recovered in County Courts by Landlords where Term has expired or been determined by Notice; 47.

In Plaint for Recovery of Possession Plaintiff may claim for Rent and mesne Profits; 48.

Possession of small Tenements may be recovered in County Court by Landlords for Nonpayment of Rent; 49.

Sub-Tenant served with Summons to recover Possession must give Notice to his immediate Landlord, who may come in and defend; 50.

In Plaints to recover Possession of Premises how Summonses may be served; 51.

Warrants to deliver Possession sufficient Justification to Bailiffs for Entry on Premises. When such Warrants are to be served; 52.

Such Warrants to be in force for Three Months from the Day named for delivering Possession; 53.

Amendment; 54.

Before whom Affidavit may be sworn; 55.

Execution or Summons for Commitment may issue within Six Years from the Date of the Judgment; 56.

Warrants of Commitment, how long to be in force; 57.

No Officer or Party shall be deemed a Trespasser by reason of Irregularity; 58.

Commitment Summonses and Warrants of Commitment if in Form given in Schedule; 59.

Bankruptcy and Insolvency of Plaintiff, when not to abate Action; 60.

Registrar to grant Replevins; 61.

Replevins to be granted on Securities given; 62.

Replevins may be commenced in Superior Courts. Conditions of Security to be given in such Cases; 63.

Conditions of Security to be given when Replevin brought in County Court; 64.

Replevins shall, at Instance of Defendant, be removed into Superior Court in certain Cases; 65.

Appeal in Actions of Replevin, and Proceedings in Interpleader, and for Recovery of Tenements; 66.

No Appeal from a County Court except on Agreement to be final; 67.

How Securities under County Court Acts to be given and enforced; 68.

Where Security is required to be given a Deposit of Money may be made in lieu thereof; 69.

Claimant of Goods taken in Execution to deposit Value or pay Costs of keeping, otherwise Goods to be sold; 70.

Acknowledgments by married Women under 3 & 4 W. 4. c. 74. to be received by a Judge of a County Court; 71.

When Debtors Prison of County is distant from a Court, the nearest Debtors Prison of neighbouring County may by Order of a Secretary of State be used; [*Proposed to be inserted in Committee.*]

When Goods seized under Process of County Court Landlord may claim certain Rent in arrear; 72.

Fees to be taken according to Schedule, and Table of Fees to be exhibited in conspicuous Places; [*Proposed to be inserted in Committee.*]

Treasury to regulate Fees to be taken in County Courts; [*Proposed to be inserted in Committee.*]

Salaries of Judges to be paid out of Consolidated Fund, as also their Travelling Expenses; [*Proposed to be inserted in Committee.*]

Salaries of the Judges; [*Proposed to be inserted in Committee.*]

Registrars to be paid by Salaries; [*Proposed to be inserted in Committee.*]

High Bailiffs to be paid partly by Salaries and partly by Fees; [*Proposed to be inserted in Committee.*]

Salaries of Registrars and High Bailiffs to be paid out of Fees; [*Proposed to be inserted in Committee.*]

Expense of maintaining to be paid out of Monies to be provided by Parliament; 73.

SCHEDULES.

A

BILL

INTITULED

An Act to amend the Acts relating to the County Courts.

[*Note.*—The Words and Clauses printed in Red Ink are proposed to be inserted in Committee.]

Preamble.

WHEREAS it is expedient to amend and extend the Provisions of the Acts relating to the County Courts established by the Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Commencement of Act.

I. The Provisions of this Act shall come into operation on the First Day of October in the Year of our Lord One thousand eight hundred and fifty-six, except the Provisions relating to framing a Scale of Costs and making Rules and Orders of Practice and Forms of Proceeding which shall come into operation on the passing of this Act.

Enactments in Schedule A. repealed.

II. The several Enactments specified in Schedule (A.) to this Act are hereby repealed, except as to Acts done under them.

This Act to be construed with former

III. This Act and the Acts passed in the Sessions of Parliament holden in the Ninth and Tenth Years of the Reign of Her present

Acts relating to County Courts.

Majesty, Chapter Ninety-five, in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, Chapter One hundred and one, in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-one, and in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-four, shall be read and construed as One Act, as if the several Provisions in the said recited Acts contained, not inconsistent with the Provisions of this Act, were repeated and re-enacted in this Act.

Time and Mode of doing certain Things to be regulated by Rules of Practice.

IV. Where the Time within which, or where the Mode in which, any Proceeding should be taken in the County Court is not prescribed, either in this Act or in any Act relating to the County Courts, such Time and Mode shall be appointed by the Rules of Practice, Orders, and Forms, to be made as herein-after provided.

Qualification of Deputy Judge.

V. Any Person hereafter to be appointed a Deputy to the Judge of a County Court shall be a Barrister-at-Law of Seven Years Standing, or shall have practised as a Barrister and Special Pleader for at least Seven Years, or shall be a Judge of a County Court.

Where a Court cannot be held Proceedings to stand adjourned.

VI. Where by reason of the Death or unavoidable Absence of the Judge a County Court cannot be held, the Registrar, or in the event of his unavoidable Absence, the High Bailiff, shall adjourn the Court to such Day as he may deem convenient, and enter in the Minute Book the Cause of such Adjournment.

Clerk to be called Registrar.

VII. The Clerk of a County Court shall hereafter be called the Registrar of the Court.

Lord Chancellor may permit Registrar or Assistant Clerk to reside out of District.

VIII. Notwithstanding Section Three of the Act of the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-one, a Registrar or Assistant Clerk appointed since the passing of that Act may reside out of the District of the Court or Courts for which he shall have been appointed, if the Lord Chancellor, or, where the whole of the District is within the Duchy of Lancaster, the Chancellor of the Duchy, shall, in the Exercise of his Discretion, on special Grounds, and on such Terms as he shall think fit to impose, grant Permission for that Purpose.

Deputy of Judge to continue to act after Death of Judge.

IX. The Appointment of a Deputy of a Judge of a County Court, whether such Deputy shall have been appointed by the Judge, or by the Lord Chancellor, or by the Chancellor of the Duchy of Lancaster, shall not be vacated by the Death of the Judge, but his Acts done after such Death shall be as valid as if the Judge had not died, and he shall continue to act in all the Courts of the District of which the Deceased was Judge, until the Lord Chancellor, or, where the whole of such District is within the Duchy of Lancaster, until the Chancellor of that Duchy, shall otherwise order, or a Successor to such Judge shall be appointed; and he shall receive as Remuneration for his Services during the Period he may so act after the Death of the Judge a rateable Proportion of the Salary and travelling Allowances attached to the Office of Judge.

Deputy of Registrar to continue to act after Death or Removal of Registrar.

X. The Appointment of a Deputy of a Registrar shall not be vacated by the Death or Removal of the Registrar, but his Acts done after such Death or Removal shall be as valid as if the Registrar had not died or been removed, and he shall continue to act until a Successor to such Registrar shall be appointed; and he shall receive as Remuneration for his Services during the Period he may so act after the Death or Removal of the Registrar a rateable Proportion of the Salary attached to the Office of Registrar.

Who may discharge Duties of Registrar on his Death or Removal, without having appointed a Deputy.

XI. On the Death or Removal of a Registrar who shall not have appointed a Deputy, the Judge may, for a Period not exceeding Three Months, provisionally appoint a Person to discharge the Duties of Registrar, and such Person shall act as and have all the Rights and Liabilities of a Registrar until a permanent Successor shall be appointed, and shall receive as Remuneration for his Services during the Period he may so act a rateable Proportion of the Salary attached to the Office of Registrar.

Assistant Bailiffs to continue to act after Removal of High Bailiff.

XII. The Appointment of the Bailiffs who are appointed to assist the High Bailiff shall not be vacated by the Death or Removal of the High Bailiff, but their Acts done after such Death or Removal shall be as valid as if the High Bailiff had not died or been removed, and had authorized such Acts, and they shall continue to act until they shall be dismissed by the Successor of the High Bailiff or by the Judge; and they shall be paid for their Services during the Period they shall so act after the Death or Removal of the High Bailiff the same Wages as they were receiving at the Date of such Death or Removal, and such Wages shall be paid out of the Salary and Allowances attached to the Office of High Bailiff.

Who may discharge Duties of High Bailiff on his Death or Removal.

XIII. On the Death or Removal of a High Bailiff, the Judge may, for a Period not exceeding Three Months, provisionally appoint a Person to discharge the Duties of High Bailiff, and such Person shall act as and have all the Rights and Liabilities of a High Bailiff until a permanent Successor shall be appointed, and shall receive as Remuneration for his Services during the Period he shall so act a rateable Proportion of the Salary and Allowances attached to the Office of High Bailiff.

Bailiff may serve Summons or execute Process within 500 Yards of District.

XIV. A Summons may be served, or a Warrant executed, within Five hundred Yards of the Boundary of the District of the County Court from which the same issued by the Bailiff of such Court, or by Order of the Judge of such Court, by such Bailiff within the District of any other Court.

Districts of the Courts in the Metropolis to be treated as One District for certain Purposes.

XV. Where a Plaintiff shall dwell or carry on Business in the District of the Bloomsbury County Court of Middlesex, or in the District of the Brompton County Court of Middlesex, or in the District of the Clerkenwell County Court of Middlesex, or in the District of the Lambeth County Court of Surrey, or in the District of the Marylebone County Court of Middlesex, or in the District of the Shoreditch County Court of Middlesex, or in the District of the Southwark County Court of Surrey, or in the District of the Westminster County Court of Middlesex, or in the District of the Whitechapel County Court of Middlesex, and the Defendant shall dwell or carry on Business in the District of any of the said Courts, the Summons may issue and be served either in the District in which the Plaintiff shall dwell or carry on Business, or in the District in which the Defendant shall dwell or carry on Business.

Where Judge of County Court can sue and be sued.

XVI. A Judge proposing to sue any Person dwelling or carrying on Business in any District of which he is the Judge may bring his Action in the County Court of any adjoining District of which he is not the Judge; and any Person proposing to sue a Judge may bring his Action in any County Court of a District adjoining the District of which the Defendant is Judge.

If Officer of Court be Plaintiff in his own Court, Defendant may remove the Cause to an adjoining District.

XVII. If an Action be brought by an Officer of a County Court in the Court of which he is an Officer, the Judge shall, at the Request of the Defendant, order that the Venue be changed, and that the Cause be sent for Hearing to the Court of some convenient District of which he is not the Judge; and the Registrar of the first-mentioned Court shall forthwith transmit by Post to the Registrar of such last-mentioned Court a certified Copy of the Plaint as entered in the Plaint Book, a duplicate Copy of the Summons and Particulars served on the Defendant, and a certified Copy of the Order for changing the Venue as entered in the Minute Book; and the Judge of such last-mentioned Court shall appoint a Day for the Hearing, Notice whereof shall be sent by Post or otherwise by the Registrar of such last-mentioned Court to both Parties.

Where Officer of County

XVIII. If an Action be brought against an Officer of a County Court, the Summons may issue in the District of which he is an Officer, Court may be sued.

Officer, or in any adjoining District the Judge of which is not the Judge of a Court of which the Defendant is an Officer.

Power to change Venue.

XIX. If a Judge of a County Court shall be satisfied by either Party to a Cause pending in his Court that such Cause can be more conveniently or fairly tried in some other County Court, he shall order that the Venue be changed, and that the Cause be sent for Hearing to such other County Court, or, if the Judge shall be interested in the Matter of any Cause pending in his Court, he shall order that the Venue be changed, and that the Cause be sent for Hearing to some convenient County Court of which he is not the Judge, at his Discretion; and in either Case the Registrar of the Court in which the Plaint was entered shall forthwith transmit by Post to the Registrar of the Court to which the Cause is to be sent a certified Copy of the Plaint, as entered in the Plaint Book, a Duplicate Copy of the Summons and Particulars served on the Defendant, and a certified Copy of the Order for changing the Venue, and the Judge of such last-mentioned Court shall appoint a Day for the Hearing, Notice whereof shall be sent by Post or otherwise by the Registrar to both Parties.

In certain Cases, on Agreement of the Parties, County Court shall have Power to try Causes, although the Matters be beyond its Jurisdiction.

XX. The County Courts shall not have Jurisdiction to try any Action for Criminal Conversation; but with respect to all other Actions, which may be brought in any Superior Court of Common Law, if both Parties shall agree by a Memorandum signed by them or their respective Attorney that any County Court named in such Memorandum shall have Power to try such Action, such County Court shall have Jurisdiction to try the same.

Where Claim reduced by Set-off to 50*l.* Court to have Jurisdiction.

XXI. Where in any Action the Debt or Demand claimed consists of a Balance not exceeding Fifty Pounds, after an admitted Set-off of any Debt or Demand claimed or recoverable by the Defendant from the Plaintiff, the Court shall have Jurisdiction to try such Action; provided that neither the Claim nor the Counterclaim exceeds in Amount the Sum of Two hundred Pounds.

Where Title shall come in question, Court, with Consent of Parties at Trial, may decide the Claim.

XXII. In any Action in the County Court in which the Title to any corporeal or incorporeal Hereditament, or to any Toll, Fair, Market, or Franchise, shall incidentally come in question, the Judge shall have Power to decide the Claim which it is the immediate Object of the Action to enforce, if both Parties at the Hearing shall consent in any Writing signed by them or their Attorney or Agents, to the Judge having such Power; but the Judgment of the Court shall not be Evidence of Title between the Parties or their Privies in any other Action in that Court or in any Proceeding in any other Court; and such Consent shall not prejudice or affect any Right of Appeal of either of the Parties to such first-mentioned Action.

In certain Cases Superior Judge may order Cause to be tried in County Court.

XXIII. Where in any Action of Contract brought in a Superior Court the Claim indorsed on the Writ does not exceed Fifty Pounds, or where such Claim, though it originally exceeded Fifty Pounds, is reduced by Payment into Court, Payment, an admitted Set-off, or otherwise, to a Sum not exceeding Fifty Pounds, a Judge of a Superior Court, on the Application of either Party, after Issue joined, may, in his Discretion, and on such Terms as he shall think fit, order that the Cause be tried in any County Court which he shall name; and thereupon the Plaintiff shall lodge with the Registrar of such Court such Order and the Issue; and the Judge of such Court shall appoint a Day for the Hearing of the Cause, Notice whereof shall be sent by Post or otherwise by the Registrar to both Parties or their Attorneys; and after such Hearing the Registrar shall certify the Result to the Master's Office of such Superior Court, and Judgment in accordance with such Certificate may be signed in such Superior Court.

No Action to be brought in County Court on Judgment of Superior Court.

XXIV. No Action shall be brought in a County Court on any Judgment of a Superior Court.

If liquidated Demand exceed *20l.*, Plaintiff may require Defendant to give Notice of Intention to defend, on pain of Judgment by Default.

XXV. In any Action in a County Court for a Debt or liquidated Money Demand exceeding Twenty Pounds, the Plaintiff may, at his Option, cause to be issued either a Summons in the ordinary Form, or a Summons in the Form or to the Effect given in Schedule (B.) to this Act numbered (1); provided that if such last-mentioned Summons be issued it shall be personally served on the Defendant Twelve clear Days before the Return Day thereof, and then if the Defendant shall not at least Six clear Days before such Return Day give Notice in Writing, signed by himself, his Attorney or Agent, to the Registrar, of his Intention to defend, the Plaintiff may, on or within One Month after such Return Day, without giving any Proof of his Claim, have Judgment entered up against the Defendant for the Amount of his Claim and Costs, such Costs to be taxed by the Registrar; and the Order upon such Judgment shall be for Payment forthwith, or at such Time or Times, and by such Instalments, if any, as the Plaintiff or his Attorney or Agent shall in Writing have consented to take at the Time of the Entry of the Plaint.

If Notice to defend given, Action shall be tried.

Registrar to tell Plaintiff whether

XXVI. If the Defendant shall give such Notice as in the last preceding Section is specified, the Action shall be heard in the ordinary Course; but in any event the Registrar shall, immediately after the last Day for giving such Notice, send a Letter to the Plaintiff by Post, stating therein whether the Defendant has or has not been served with such Summons, and whether he has or has not given Notice of his Intention to defend.

Notice has or has not been given.

XXVII. Where an Action of Contract is brought in One of Her Majesty's Superior Courts of Record to recover a Sum not exceeding Twenty Pounds, and the Defendant in the Action suffers Judgment by Default, the Plaintiff shall recover no Costs, unless upon an Application to a Judge of such Court he shall otherwise direct.

In certain Cases of Judgment by Default, Costs may be recovered.

XXVIII. A Judge of a County Court, in any Case where he shall see fit, upon Application on Affidavit by either Party, may issue an Order under his Hand and the Seal of the Court for bringing up before such Court any Prisoner or Person confined in any Gaol, Prison, or Place, under any Sentence or under Commitment for Trial or otherwise, except under Process in any Civil Action, Suit, or Proceeding, to be examined as a Witness in any Cause or Matter depending, or to be inquired of or determined in or before such Court; and the Person required by any such Warrant or Order to be brought before such Court shall be so brought under the same Care and Custody, and be dealt with in like Manner in all respects, as a Prisoner required by any Writ of Habeas corpus awarded by any of Her Majesty's Superior Courts of Law at Westminster to be brought before such Court to be examined as a Witness in any Cause or Matter depending before such Court, is now by Law required to be dealt with: Provided always, that the Person having the Custody of such Prisoner or Person shall not be bound to obey such Order, unless a Tender be made to him of a reasonable Sum for the Conveyance and Maintenance of a proper Officer or Officers, and of the Prisoner or Person in going to, remaining at, and returning from such County Court.

Judge may issue Warrant for bringing up a Prisoner to give Evidence.

XXIX. The Lord Chancellor may appoint Five County Court Judges, and from Time to Time fill up any Vacancies in their Number, to frame Rules and Orders for regulating the Practice of the Courts, and Forms of Proceedings therein, and from Time to Time to amend such Rules, Orders, and Forms; and such Rules, Orders, and Forms, or amended Rules, Orders, and Forms, certified under the Hands of such Judges or any Three or more of them, shall be submitted to the Lord Chancellor, who may allow or disallow or alter the same; and the Rules, Orders, and Forms, or amended Rules, Orders, and Forms, so allowed or altered, shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

Rules and Orders for County Court regulating Practice of County Courts, and Forms of Proceedings, to be framed by the Judges.

XXX. With respect to Proceedings in the County Courts, in Actions where the Debt or Damage claimed exceeds Twenty Pounds,

Scale of Costs to be allowed to

Attorneys in certain Proceedings in County Courts to be framed by the Judges.

the Five County Court Judges mentioned in the last Section shall be empowered to frame a Scale of Costs and Charges to be paid to Counsel and Attorneys, and from Time to Time to amend such Scale; and such Scale or amended Scale, certified under the Hands of such Judges or any Three or more of them, shall be submitted to the Lord Chancellor, who may allow or disallow or alter the same; and the Scale or amended Scale so allowed or altered shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

Costs of Attorney in certain Proceedings in County Courts shall be taxed by Registrar as between Party and Party.

XXXI. With respect to such Proceedings as are specified in the last preceding Section, all Costs and Charges between Party and Party shall be taxed by the Registrar of the Court in which such Costs and Charges were incurred, but his Taxation may be reviewed by the Judge of the Court, on the Application of either Party; and no Costs or Charges shall be allowed on such Taxation which are not sanctioned by the Scale then in force.

Costs of Attorney in certain Proceedings in County Courts may be taxed by Registrar as between Attorney and Client.

XXXII. With respect to such Proceedings as are last hereinbefore specified, all Costs and Charges between Attorney and Client shall, on the Application either of the Attorney or Client, but not otherwise, be taxed by the Registrar of the Court in which such Costs and Charges were incurred, but his Taxation may be reviewed by the Judge of the Court, on the Application of either Party; and no Costs or Charges shall be allowed on such Taxation which are not sanctioned by the Scale then in force, unless the Registrar shall be satisfied that the Client has agreed in Writing to pay them, in which Case they may be allowed; and no Attorney shall have a Right to recover from his Client any Costs or Charges in respect of such Proceedings, unless they shall have been allowed, either on such Taxation, or on the Taxation of a Master of a Superior Court of Common Law or of the Court of Chancery.

Costs between Attorney and Client.

XXXIII. Where in any Action the Debt or Damage claimed shall not exceed Twenty Pounds, an Attorney shall not be entitled to recover from his Client any further Costs or Charges in the Conduct of such Suit than those mentioned in the Ninety-first Section of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, unless upon Taxation of Costs the Registrar be satisfied, by Writing under the Hand of the Client, that he has agreed to pay further Costs or Charges; and in such Case the Registrar may allow any Costs or Charges not exceeding the Amount which may have been so agreed to be paid.

XXXIV. Until the Scale of Costs and Charges, and the Rules, Orders, and Forms mentioned herein, shall respectively be in force, the Scale of Costs and Charges, and the Rules, Orders, and Forms, respectively in operation in the County Courts at the Time of passing this Act, so far as the same are not inconsistent with this Act, shall continue in force.

Till new Scale of Costs, and Rules and Orders, and Forms, made, former Practice to continue.

XXXV. If in any Action of Contract the Plaintiff shall claim a Sum exceeding Twenty Pounds, or if in any Action of Tort the Plaintiff shall claim a Sum exceeding Five Pounds, and the Defendant shall give Notice that he objects to the Action being tried in the County Court, and shall give Security, to be approved of by the Registrar, for the Amount claimed, and the Costs of Trial, in One of the Superior Courts of Common Law, not exceeding in the whole the Sum of One hundred and fifty Pounds, all Proceedings in the County Court in any such Action shall be stayed; but if in any such Action the Defendant do not object to the same being tried by the County Court, or shall fail to give the Security aforesaid, the County Court shall dispose of the Cause in the usual Way; and the Entry of the Plaint in such Action shall be a sufficient Commencement of the Suit to prevent the Operation of any Statute of Limitation applicable to such Claim: Provided that nothing herein contained shall prevent the Removal of any Cause from a County Court by Writ of Certiorari in the Cases and subject to the Conditions in and subject to which such Cause may now be removed.

In certain Cases Defendant may object to Cause being tried in the County Court.

XXXVI. Any Action commenced in a County Court for a Claim not exceeding Five Pounds may be removed by Writ of Certiorari into a Superior Court, if such Superior Court or a Judge of a Superior Court shall deem it desirable that the Cause shall be tried in such Superior Court; and if the Party applying for such Writ shall give Security, to be approved of by One of the Masters of such Superior Court, for the Amount of the Claim, and the Costs of the Trial, not exceeding in all One hundred Pounds, and shall further assent to such Terms, if any, as the Superior Court or Judge shall think fit to impose.

Certiorari may be granted in certain Cases, at Discretion of Superior Judge, on Security given.

XXXVII. The granting by any of the Superior Courts or by any Judge thereof of a Rule or Summons to show Cause why a Writ of Certiorari or Prohibition should not issue to a County Court, shall, if the Superior Court or a Judge thereof so direct, operate as a Stay of Proceedings in the Cause to which the same shall relate until the Determination of such Rule or Summons, or until such Superior Court or Judge shall otherwise order; and the Judge of the County Court shall

Rule or Summons to show Cause why a Writ of Certiorari or Prohibition should not issue to be a Stay of Proceedings.

shall from Time to Time adjourn the Hearing of such Cause to such Day as he shall think fit until such Determination or until such Order be made; but if a Copy of such Rule or Summons shall not be served by the Party who obtained it on the opposite Party and on the Registrar of the County Court Two clear Days before the Day fixed for the Hearing of the Cause, the Judge of the County Court may in his Discretion order the Party who obtained the Rule or Summons to pay all the Costs of the Day, or so much thereof as he shall think fit, unless the Superior Court or a Judge thereof shall have made some Order respecting such Costs.

Notice of Writ of Certiorari or Prohibition having been obtained to be sent to Registrar.

XXXVIII. Where a Writ of Certiorari or of Prohibition addressed to a Judge of a County Court shall have been granted by a Superior Court or a Judge thereof, on an ex-parte Application, and the Party who obtained it shall not lodge it with the Registrar, and give Notice to the opposite Party that it has issued, Two clear Days before the Day fixed for hearing the Cause to which it shall relate, the Judge of the County Court may, in his Discretion, order the Party, who obtained the Writ, to pay all the Costs of the Day, or so much thereof as he shall think fit, unless the Superior Court or a Judge thereof shall have made some Order respecting such Costs.

Application for Writ of Prohibition to a Judge shall be finally disposed of by Rule or Order.

XXXIX. When an Application shall be made to a Superior Court or a Judge thereof for a Writ of Prohibition to be addressed to a Judge of a County Court, the Matter shall be finally disposed of by Rule or Order, and no Declaration or further Proceedings in Prohibition shall be allowed.

Rule or Order substituted for Writ of Mandamus to a Judge or Officer of a County Court.

XL. No Writ of Mandamus shall henceforth issue to a Judge or an Officer of the County Court for refusing to do any Act relating to the Duties of his Office; but any Party requiring such Act to be done may apply to any Superior Court or a Judge thereof, upon an Affidavit of the Facts for a Rule or Summons calling upon such Judge or Officer of a County Court, and also the Party to be affected by such Act, to show Cause why such Act should not be done; and if after the Service of such Rule or Summons good Cause shall not be shown, the Superior Court or Judge thereof may by Rule or Order direct the Act to be done, and the Judge or Officer of the County Court, upon being served with such Rule or Order, shall obey the same on pain of Attachment; and in any event the Superior Court or the Judge thereof may make such Order with respect to Costs as to such Court or Judge shall seem fit.

XLI. When any Superior Court or a Judge thereof shall have refused to grant a Writ of Certiorari or of Prohibition to be addressed to a Judge, or such Rule or Order as in the last preceding Section is specified, no other Superior Court or Judge thereof shall grant such Writ or Rule or Order; but nothing herein shall affect the Right of appealing from the Decision of the Judge of the Superior Court to the Court itself, or prevent a Second Application being made for such Writ or Rule or Order to the same Superior Court or a Judge thereof on Grounds different from those on which the First Application was founded.

Refusal of Writ of Certiorari or Prohibition or of Rule or Order in the Nature of a Mandamus by One Court or Judge to be final.

XLII. Where Judgment has been obtained in a County Court for a Sum not exceeding Twenty Pounds, exclusive of Costs, the Judge may order such Sum and the Costs to be paid at such Time or Times, and by such Instalments, if any, as he shall think fit, and all such Monies shall be paid into Court; but in all other Cases he shall order the full Amount for which Judgment has been obtained to be paid either forthwith, or within Fourteen clear Days from the Date of the Judgment, unless the Plaintiff, or his Counsel, Attorney, or Agent, will consent that the same shall be paid by Instalments, in which Case the Judge shall order the same to be paid at such Time or Times, and by such Instalments, if any, as shall be consented to, and all such Monies, whether payable in One Sum or by Instalments, shall be paid into Court.

Where Judgment does not exceed 20*l*., Judge may order Payment by Instalments; in other Cases, Consent of Plaintiffs necessary.

XLIII. The precise Time when any Application shall be made to a Registrar to issue a Warrant against the Goods of a Party shall be entered by him in the Execution Book and on the Warrant; and when more than One such Warrant shall be delivered to the High Bailiff to be executed he shall execute them in the Order of the Times so entered.

Priority of Executions issuing out of County Court.

XLIV. When a Writ against the Goods of a Party has issued from a Superior Court, and a Warrant against the Goods of the same Party has issued from a County Court, the Right to the Goods seized shall be determined by the Priority of the Time of the Delivery of the Writ to the Sheriff to be executed, or of the Application to the Registrar for the Issue of the Warrant to be executed; and the Sheriff, on Demand, shall, by Writing signed by any Clerk in the Office of the Under Sheriff, inform the High Bailiff of the precise Time of such Delivery of the Writ, and the Bailiff, on Demand, shall show his Warrant to any Sheriff's Officer, and such Writing purporting to be so signed, and the Endorsement on the Warrant, shall respectively be sufficient Justification to any High Bailiff or Sheriff acting thereon.

Priority of Executions issuing out of Superior Court and County Court.

Summons for Commitment may, by Leave of Court, issue in Court in which Judgment was obtained.

XLV. A Judgment Summons authorized by the Ninety-eighth Section of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, may, by Leave of the Judge, be obtained from the Court in which Judgment was obtained, although the Judgment Debtor shall not then dwell or carry on Business within the District of such Court, if the Judge shall think fit, in the Exercise of his Discretion, to grant such Leave.

Judgment may be removed if there are no Goods to be taken under it.

XLVI. If a Judge of a Superior Court shall be satisfied that a Party against whom Judgment for an Amount exceeding Twenty Pounds, exclusive of Costs, has been obtained in a County Court, has no Goods or Chattels which can be conveniently taken to satisfy such Judgment, he may, if he shall think fit, and on such Terms as to Costs as he may direct, order a Writ of Certiorari to issue to remove the Judgment of the County Court into One of the Superior Courts, and when removed it shall have the same Force and Effect, and the same Proceedings may be had thereon, as in the Case of a Judgment of such Superior Court; but no Action shall be brought upon such Judgment without Leave of the Superior Court or of a Judge thereof.

Possession of small Tenements may be recovered in County Courts by Landlords where Term has expired or been determined by Notice.

XLVII. When the Term and Interest of the Tenant of any corporeal Hereditament, where neither the Value of the Premises nor the Rent payable in respect thereof shall have exceeded Fifty Pounds by the Year, and upon which no Fine or Premium shall have been paid, shall have expired, or shall have been determined either by the Landlord or the Tenant by a legal Notice to quit, and such Tenant, or any Person holding or claiming by, through, or under him, shall neglect or refuse to deliver up Possession accordingly, the Landlord may enter a Plaint, at his Option, either against such Tenant or against such Person so neglecting or refusing, in the County Court of the District in which the Premises lie for the Recovery of the same, and thereupon a Summons shall issue to such Tenant or such Person so neglecting or refusing; and if the Defendant shall not, at the Time named in the Summons, show good Cause to the contrary, then, on Proof of his still neglecting or refusing to deliver up Possession of the Premises, and of the yearly Value and Rent of the Premises, and of the holding, and of the Expiration or other Determination of the Tenancy, with the Time and Manner thereof, and of the Title of the Plaintiff if such Title has accrued since the letting of the Premises, and of the Service of the Summons if the Defendant shall not appear thereto, the Judge may order that Possession of the Premises mentioned in the Plaint be given by the Defendant to the Plaintiff, either forthwith or on or before such Day as the Judge shall think fit to name; and if such

Order be not obeyed, the Registrar, whether such Order can be proved to have been served or not, shall at the Instance of the Plaintiff issue a Warrant authorizing and requiring the High Bailiff of the Court to give Possession of such Premises to the Plaintiff.

In Plaint for Recovery of Possession Plaintiff may Claim for Rent and mesne Profits.

XLVIII. In any such Plaint against a Tenant as in the last preceding Section is specified the Plaintiff may add a Claim for Rent or mesne Profits, or both, down to the Day appointed for the Hearing, or to any preceding Day named in the Plaint, so as the same shall not exceed Fifty Pounds, and any Misdescription in the Nature of such Claim may be amended at the Trial.

Possession of small Tenements may be recovered in County Court by Landlords for Nonpayment of Rent.

XLIX. When the Rent of any corporeal Hereditament, where neither the Value of the Premises nor the Rent payable in respect thereof exceeds Fifty Pounds by the Year, shall for One Half Year be in arrear, and the Landlord shall have Right by Law to re-enter for the Nonpayment thereof, he may, without any formal Demand or Re-entry, enter a Plaint in the County Court of the District in which the Premises lie for the Recovery of the Premises, and thereupon a Summons shall issue to the Tenant, the Service whereof shall stand in lieu of a Demand and Re-entry; and if the Tenant shall Five clear Days before the Return Day of such Summons pay into Court all the Rent in arrear, and the Costs, the said Action shall cease, but if he shall not make such Payment, and shall not at the Time named in the Summons show good Cause why the Premises should not be recovered, then, on Proof of the yearly Value and Rent of the Premises, and of the Fact that One Half Year's Rent was in arrear before the Plaint was entered, and that no sufficient Distress was then to be found on the Premises to countervail such Arrear, and of the Landlord's Power to re-enter, and of the Rent being still in arrear, and of the Title of the Plaintiff if such Title has accrued since the letting of the Premises, and of the Service of the Summons if the Defendant shall not appear thereto, the Judge may order that Possession of the Premises mentioned in the Plaint be given by the Defendant to the Plaintiff on or before such Day, not being less than Four Weeks from the Day of Hearing, as the Judge shall think fit to name, unless within that Period all the Rent in arrear and the Costs be paid into Court; and if such Order be not obeyed, and such Rent and Costs be not so paid, the Registrar shall, whether such Order can be proved to have been served or not, at the Instance of the Plaintiff, issue a Warrant authorizing and requiring the High Bailiff of the Court to give Possession of such Premises to the Plaintiff, and the Plaintiff shall from the Time of the Execution of such Warrant hold the Premises discharged of the Tenancy, and the Defendant, and all Persons claiming by, through, or under him, shall, so long as the

Order of the Court remains unreversed, be barred from all Relief in Equity or otherwise.

Sub-Tenant served with Summons to recover Possession must give Notice to his immediate Landlord, who may come in and defend.

L. Where any Summons for the Recovery of a Tenement as is herein-before specified shall be served on or come to the Knowledge of any Sub-Tenant of the Plaintiff's immediate Tenant, such Sub-Tenant being an Occupier of the whole or of a Part of the Premises sought to be recovered, he shall forthwith give Notice thereof to his immediate Landlord under Penalty of forfeiting Three Years Rackrent of the Premises held by such Sub-Tenant to such Landlord, to be recovered by such Landlord by Action in the Court from which Summons shall have issued, and such Landlord, on the Receipt of such Notice, if not originally a Defendant, may be added or substituted as a Defendant to defend Possession of the Premises in question.

In Plaints to recover Possession of Premises how Summonses may be served.

LI. A Summons for the Recovery of a Tenement may be served like other Summonses to appear to Plaints in County Courts; and if the Defendant cannot be found, and his Place of Dwelling shall either not be known or Admission thereto cannot be obtained for serving any such Summons, a Copy of the Summons shall be posted on some conspicuous Part of the Premises sought to be recovered, and such Posting shall be deemed good Service on the Defendant.

Warrants to deliver Possession sufficient Justification to Bailiffs for Entry on Premises. When such Warrants are to be served.

LII. Any Warrant to a High Bailiff to give Possession of a Tenement shall justify the Bailiff named therein in entering upon the Premises named therein with such Assistants as he shall deem necessary, and in giving Possession accordingly; but no Entry upon any such Warrant shall be made except between the Hours of Nine in the Morning and Four in the Afternoon.

Such Warrants to be in force for Three Months from the Day named for delivering Possession.

LIII. Every such Warrant shall, on whatever Day it may be issued, bear Date on the Day next after the last Day named by the Judge in his Order for the Delivery of Possession of the Premises in question, and shall continue in force for Three Months from such Date and no longer, but no Order for Delivery of Possession need be drawn up or served.

Amendment.

LIV. The Judge of a County Court may at all Times amend all Defects and Errors in any Proceeding in such Court, whether there is anything in Writing to amend by or not, and whether the Defect or Error be that of the Party applying to amend, or not; and all such Amendments may be made with or without Costs, and upon such Terms as to the Judge may seem fit; and all such Amendments as may be necessary for the Purpose of determining in the existing Suit the real Question in controversy between the Parties shall be so made, if duly applied for.

Before whom Affidavit may be sworn.

LV. Any Affidavit to be used in a County Court may be sworn before a Judge or Registrar of a County Court, without the Payment of any Fee, or before a Commissioner to administer Oaths in Chancery in England, or a London Commissioner to administer Oaths in Chancery, or a Commissioner for taking Affidavits in any Superior Court, such Commissioners respectively not being Registrars, or before a Justice of the Peace.

Execution or Summons for Commitment may issue within Six Years from the Date of the Judgment.

LVI. A Warrant of Execution against the Goods, or a Summons for Commitment, may, without Leave of the Judge, issue on any Judgment or Order of a County Court within Six Years from the Date of such Judgment or Order.

Warrants of Commitment, how long to be in force.

LVII. Every Warrant of Commitment which shall issue from a County Court shall, on whatever Day it may be issued, bear Date on the Day on which the Order for Commitment was made, and shall continue in force for One Year from such Date and no longer, but no Order for Commitment shall be drawn up or served.

No Officer or Party shall be deemed a Trespasser by reason of Irregularity.

LVIII. No Officer of a County Court in executing any Warrant of a County Court, and no Person at whose Instance any such Warrant shall be executed, shall be deemed a Trespasser by reason of any Irregularity or Informality in any Proceeding on the Validity of which such Warrant depends, or in the Form of such Warrant, or in the Mode of executing it, but the Party aggrieved may bring an Action for any special Damage which he may have sustained by reason of such Irregularity or Informality against the Party guilty thereof, and in such Action he shall recover no Costs, unless the Damages awarded shall exceed Forty Shillings.

Commitment Summonses and Warrants of Commitment sufficient if in Form given in Schedule.

LIX. Any Judgment Summons issued out of a County Court under Section Ninety-eight of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, or under this Act, or any Warrant of Commitment in respect of an unsatisfied Judgment or Order of a County Court, may respectively be in the Form or to the Effect given in Schedule (B.) to this Act, numbered respectively (2.) and (3.); and all such Summonses or Warrants shall be deemed sufficient to justify Proceedings under them without any further Statement of Facts to show Jurisdiction.

Bankruptcy and Insolvency of

LX. The Bankruptcy or Insolvency of the Plaintiff in any Action in a County Court, which the Assignees might maintain for the

Plaintiff, when not to abate Action.

Benefit of the Creditors, shall not cause the Action to abate if the Assignees shall elect to continue such Action, and to give Security for the Costs thereof, within such reasonable Time as the Judge shall order, but the hearing of the Cause may be adjourned until such Election is made; and in case the Assignees do not elect to continue the Action, and to give such Security within the Time limited by the Order, the Defendant may avail himself of the Bankruptcy or Insolvency as a Defence to the Action.

Registrar to grant Replevins.

LXI. The Powers and Responsibilities of the Sheriff with respect to Replevin Bonds and Replevins shall henceforth cease; and the Registrar of the County Court of the District in which any Distress subject to Replevin shall be taken shall be empowered, subject to the Regulations herein-after contained, to approve of Replevin Bonds, and to grant Replevins, and to issue all necessary Process in relation thereto, and such Process shall be executed by the High Bailiff.

Replevins to be granted, on Securities given.

LXII. Such Registrar shall, at the Instance of the Party whose Goods shall have been distrained, cause the same to be replevied to such Party, on his giving one or other of such Securities as are mentioned in the next Two succeeding Sections.

Replevins may be commenced in Superior Courts.

Conditions of Security to be given in such Cases.

LXIII. An Action of Replevin may be commenced in any Superior Court in the Form applicable to Personal Actions therein, and such Court shall have Power to hear and determine the same; and if the Replevisor shall wish to commence Proceedings in any Superior Court, he shall, at the Time of replevying, give Security, to be approved of by the Registrar, for such an Amount as such Registrar shall deem sufficient to cover the alleged Rent or Damage in respect of which the Distress shall have been made, and the probable Costs of the Cause in a Superior Court, conditioned to commence an Action of Replevin against the Distrainer in such Superior Court as shall be named in the Security, within One Week from the Date thereof, and to prosecute such Action with Effect and without Delay, and unless Judgment thereon be obtained by Default, to prove before such Superior Court that he had good Ground for believing either that the Title to some corporeal or incorporeal Hereditament, or to some Toll, Market, Fair, or Franchise, was in question, or that such Rent or Damage exceeded Twenty Pounds, and to make Return of the Goods, if a Return thereof shall be adjudged.

Conditions of Security to be given when Replevin brought in County Court.

LXIV. If the Replevisor shall wish to commence Proceedings in a County Court, he shall at the Time of replevying give Security, to be approved of by the Registrar, for such an Amount as such Registrar shall deem sufficient to cover the alleged Rent or Damage in respect of which the Distress shall have been made, and the probable Costs of the Cause in the County Court, conditioned to commence an Action of Replevin against the Distrainer in the County Court of the District in which the Distress shall have been taken, within One Week from the Date of the Security, and to prosecute such Action with Effect and without Delay, and to make Return of the Goods, if a Return thereof shall be adjudged.

Replevins shall, at Instance of Defendant, be removed into Superior Court by Certiorari, in certain Cases.

LXV. Any Action of Replevin brought in a County Court shall be removed into any Superior Court by Writ of Certiorari, if the Defendant shall apply to such Superior Court or to a Judge there for such Writ, and shall give Security, to be approved of by the Master of such Superior Court, for such Amount, not exceeding One hundred and fifty Pounds, as such Master shall think fit, conditioned to defend such Action with Effect, and, unless the Replevisor shall discontinue or shall not prosecute such Action, or become nonsuit therein, to prove before such Superior Court that the Defendant had good Ground for believing, either that the Title to some corporeal or incorporeal Hereditament, or to some Toll, Market, Fair, or Franchise, was in question, or that the Rent or Damage in respect of which the Distress shall have been taken exceeded Twenty Pounds; and every such Superior Court shall have Power to determine the same Action.

Appeal in Actions of Replevin, and Proceedings in Interpleader, and for Recovery of Tenements.

LXVI. An Appeal from the Decision of a County Court, on the same Grounds and subject to the same Conditions as are provided by the Fourteenth Section of the Act of the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-one, shall be allowed in all Actions of Replevin where the Amount of Rent or Damage exceeds Twenty Pounds, and in all Actions for the Recovery of Tenements where the yearly Rent or Value of the Premises exceeds Twenty Pounds, and in Proceedings in Interpleader where the Money claimed or the Value of the Goods or Chattels claimed, or of the Proceeds thereof, exceeds Twenty Pounds, and in all Actions and Proceedings where the Sum claimed exceeds Twenty Pounds.

Parties may agree not to appeal.

LXVII. No Appeal shall lie from the Decision of a County Court, if before such Decision is pronounced both Parties shall agree, in Writing signed by themselves or their Attorneys or Agents, that the Decision of the Judge shall be final, and no such Agreement shall require a Stamp.

How Securities under County

LXVIII. Where by this Act, or any Act relating to the County Courts, a Party is required to give Security, such Security shall be at

Court Acts to be given and enforced.

at the Cost of the Party giving it, and in the Form of a Bond, with Sureties, to the other Party or intended Party in the Action or Proceeding; Provided always, that the Court in which any Action on the Bond shall be brought may by Rule or Order give such Relief to the Obligors as may be just, and such Rule or Order shall have the Effect of a Defeasance of such Bond.

Where Security is required to be given, a Deposit of Money may be made in lieu thereof.

LXIX. Where by this Act or any Acts relating to the County Courts a Party is required to give Security, he may in lieu thereof deposit with the Registrar, if the Security is required to be given in a County Court, or with a Master of the Superior Court if the Security is required to be given in such Court, a Sum equal in Amount to the Sum for which he would be required to give Security, together with a Memorandum, to be approved of by such Registrar or Master, and to be signed by such Party, his Attorney or Agent, setting forth the Conditions on which such Money is deposited, and the Registrar or Master shall give to the Party paying a written Acknowledgment of such Payment; and the Judge of the County Court, when the Money shall have been deposited in such Court, or a Judge of the Superior Court when the Money shall have been deposited in a Superior Court, may, on the same Evidence as would be required to enforce or avoid such Bond as in the last preceding Section is mentioned, order such Sum so deposited to be paid out to such Party or Parties as to him shall seem just.

Claimant of Goods taken in Execution must deposit their Values or pay Costs of keeping Possession, otherwise Goods shall be sold.

LXX. Where any Claim shall be made under Section One hundred and eighteen of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, to or in respect of any Goods taken in Execution under the Process of a County Court, the Claimant may deposit with the Bailiff either the Amount of the Value of the Goods claimed, such Value to be fixed by Appraisement in case of Dispute, to be by such Bailiff paid into Court, to abide the Decision of the Judge upon such Claim, or the Sum which the Bailiff shall be allowed to charge as Costs for keeping Possession of such Goods until such Decision can be obtained, and in default of the Claimant so doing the Bailiff shall sell such Goods as if no such Claim had been made, and shall pay into Court the Proceeds of such Sale, to abide the Decision of the Judge.

Acknowledgments by married Women under 3 & 4 W. 4. c. 74. to be received by Judge of a County Court.

LXXI. Any Acknowledgment to be made by any married Woman of any Deed under the Act of the Third and Fourth Years of the Reign of His late Majesty King William the Fourth, Chapter Seventy-four, may be received by a Judge of a County Court in the same Manner as such Acknowledgment may be received by a Judge of a Superior Court.

When Debtors Prison of County is distant from a Court, the nearest Debtors Prison of adjoining Court may, by Order of a Secretary of State, be used.

When any Prison wherein any Person committed by a County Court may be confined is situated at an inconvenient Distance from such Court, One of Her Majesty's Principal Secretaries of State may, by Order under his Hand, direct that Persons committed by such Court shall be confined in any other Prison named in such Order to which Persons may be committed from any other County Court, though such Prison may be in a different County, District, City, Borough, or Place from that in which such first-mentioned Court shall be held; but every Person so confined shall be supported at the Expense of the County, District, City, Borough, or Place in which he shall have resided at the Time of his Committal; and the Order of the Secretary of State shall direct in what Manner the Treasurer of the said County, District, City, Borough, or Place shall repay to the Treasurer of the County, District, City, Borough, or Place in which such Person shall be so confined the Expense of his Support.

When Goods seized under Process of County Court Landlord may claim certain Rent in arrear.

LXXII. Section One of the Act of the Eighth Year of the Reign of Queen Anne, Chapter Fourteen, shall not apply to Goods taken in Execution under the Warrant of a County Court, but the Landlord of any Tenement in which any such Goods shall be so taken may claim the Rent thereof at any Time within Three clear Days from the Date of such taking, by delivering to the Bailiff or Officer making the Levy any Writing signed by himself or his Agent which shall state the Amount of Rent claimed to be in arrear, and the Time for and in respect of which such Rent is due; and if such Claim be made, the Bailiff or Officer making the Levy shall in addition thereto distrain for the Rent so claimed and the Costs of such Distress, and shall not within Five Days next after such Distress sell any Part of the Goods taken, unless they be of a perishable Nature, or upon the Request in Writing of the Party whose Goods shall have been taken; and the Bailiff shall afterwards sell such of the Goods under the Execution and Distress as shall satisfy, first, the Costs of and incident to the Sale, next the Claim of such Landlord, not exceeding the Rent of Four Weeks where the Tenement is let by the Week, the Rent of Two Terms of Payment where the Tenement is let for any other Term less than a Year, and the Rent of One Year in any other Case, and lastly the Amount for which the Warrant issued; and if any Replevin be made of the Goods so taken, the Bailiff shall, notwithstanding, sell such Portion thereof as will satisfy the Costs of and incident to the Sale under the Execution, and the Amount for which the Warrant issued; and in either event the Overplus of the Sale, if any, and the Residue of the Goods, shall be returned to the Defendant; and the Poundage of the High Bailiff and Broker for keeping Possession, Appraisement, and Sale under such Distress, shall be the same as would have been payable if the Distress had been an Execution of the County Court, and no other Fees shall be demanded or taken in respect thereof.

Fees specified in Schedule to be taken and Table of Fees to be exhibited in Court and Registrar's Office.

The Fees payable on Proceedings in the County Courts, other than Proceedings in Insolvency and Protection Cases, shall be those only, which are specified in Schedule (C.) to this Act; and such Fees shall, except in Interpleaders, or where such Fees shall be payable in respect of keeping Possession, appraising or selling Goods seized, be paid in the first instance by the Party on whose Behalf any such Proceeding is to be taken, before such Proceeding is taken; and in default of the Payment of any Fees, Payment thereof shall, by Order of the Judge, be enforced by such Means as might be employed to recover any Debt adjudged by the Court to be paid; and a Table of all Fees shall be posted in some conspicuous Place in every Court House and in every Registrar's Office.

Treasury to regulate Fees to be taken in County Courts.

The Commissioners of Her Majesty's Treasury from Time to Time, with the Consent of the Lord Chancellor, may lessen or increase the Fees which are specified in Schedule (C.) to this Act, or which are now payable on Proceedings in Insolvency or Protection Cases in the County Courts, and may substitute other Fees in lieu thereof, and may order new Fees to be paid on any Proceedings which are now or shall hereafter be authorized to be taken in such Courts.

Salaries of Judges to be paid out of Consolidated Fund, as also their Travelling Expenses.

The Salaries of the Judges of the County Courts, and the Sums allowed to them to defray Travelling Expenses, shall be paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and the Commissioners of Her Majesty's Treasury are hereby empowered to pay the same accordingly.

Salaries of the Judges.

Whereas by the Fourteenth Section of the said Act passed in the Session of Parliament holden in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-four, it was enacted that after the passing of the said Act the greatest Salaries to be received in any Case by the Judges of the County Courts should be One thousand five hundred Pounds, but that in no Case should any Judge be paid a less Salary than Twelve hundred Pounds: And whereas the Commissioners of Her Majesty's Treasury have ordered that the Salaries of the Judges whose Names are mentioned in the Schedule marked (D.) annexed to this Act should be fixed at the Amounts set opposite their respective Names in such Schedule, and such Salaries are now paid to such Judges accordingly: And whereas it is desirable that the Salaries of the Judges of the County Courts should be fixed by Parliament at One uniform Rate: Be it enacted, That every Judge of a County Court shall be paid a Salary of Twelve hundred Pounds a Year, and no more: Provided always, that the Judges mentioned in the said Schedule shall continue to receive the Salaries therein mentioned to be payable to them respectively, so long as they shall continue to be Judges of the County Courts: And provided also, that nothing herein contained shall affect the Right or Title of any County Court Judge to receive any Sum or Sums of Money now or hereafter to bd made payable to him for defraying his Travelling Expenses.

The Registrars of the Courts shall be paid by Salaries to be fixed and regulated from Time to Time by the Commissioners of Her Majesty's Treasury, with the Consent of the Lord Chancellor, and such Salaries shall be inclusive of all Salaries to the Clerks employed by the Registrars in the Business of their respective Courts.

Registrars [illegible]

The High Bailiffs of the Courts shall be paid by Salaries to be fixed and regulated from Time to Time by the Commissioners of Her Majesty's Treasury, with the Consent of the Lord Chancellor, and shall, in addition to such Salaries, receive for their own Use the Fees appointed for keeping Possession of Goods under Executions.

High Bailiffs to be paid partly by Salaries and partly by Fees.

The Salaries of the Registrars and High Bailiffs shall be paid out of the Produce of the Fees payable under the Provisions of this Act; and whenever the Amount of such Fees shall not be sufficient to pay such Salaries the Deficiency shall be made good out of any Monies to be provided by Parliament for that Purpose; and the Surplus which from Time to Time shall remain after Payment of the said Salaries shall be paid over to the Credit of the said Consolidated Fund.

Salaries of Registrars and High Bailiffs to be paid out of Fees.

LXXIII. The Expense of building, purchasing, or providing any Messuages and Lands for the Purposes of the County Courts, and of repairing, furnishing, cleaning, lighting, and warming the Court Houses and Offices, and of Payment of the Salaries of the necessary Servants for taking charge of such Court Houses and Offices, and of supplying the Courts and Offices with Law and Office Books and Stationery, and of Postage Stamps, and the Disbursements of the High Bailiffs in conveying to Prison Persons committed by the County Courts, and all other Expenses incident to the holding of the said Courts, shall be paid by the Commissioners of Her Majesty's Treasury out of any Monies to be from Time to Time provided by Parliament for such Purposes.

Expense of maintaining to be paid out of Monies to be provided by Parliament.

SCHEDULES referred to in the foregoing Act.

SCHEDULE A.

(1.)—*Parts of Acts repealed.*

Reference to Act.	Title of Act.	Extent of Repeal.
9 & 10 Vict. c. 95. -	An Act for the more easy Recovery of Small Debts and Demands in England.	The whole of Sections 37., 52., 92., 107., 121, 122, 123., 126, 127., and 139. So much of Section 58. as relates to Actions for malicious Prosecution. So much of Section 102. as enacts that "no Protection Order or " Certificate granted by any " Court of Bankruptcy, or for " the Relief of Insolvent Debt- " ors, shall be available to dis- " charge any Defendant from " any Commitment" under the Order of a Judge. So much of Section 142. as applies to the Word "Agent."
12 & 13 Vict. c. 101.	An Act to amend the Act for the more easy Recovery of Small Debts and Demands in England, and to abolish certain Inferior Courts of Record.	The whole of Section 6.
13 & 14 Vict. c. 61. -	An Act to extend the Act for the more easy Recovery of Small Debts and Demands in England, and to amend the same.	The whole of Sections 5, 6, 7., 17., 20, 21., and 23.
15 & 16 Vict. c. 64. -	An Act further to facilitate and arrange Proceedings in the County Courts.	The whole of Section 1.
17 & 18 Vict. c. 16. -	An Act to amend the Act of the Thirteenth and Fourteenth Victoria, Chapter Sixty-one, and the Act of the Fifteenth and Sixteenth Victoria, Chapter Fifty-four.	The whole of Section 1.

SCHEDULE B.

No. 1.

Summons to obtain Judgment by Default on personal Service.

No. [*of Plaint*].

In the [*Title of Court issuing Summons*].

[*Seal.*] Between *A.B.*, Plaintiff,
and
C.D., Defendant.

[*Name, Description, and Address of Defendant.*]

TAKE NOTICE, That, unless at least Six clear Days before the [*Day of Appearance to Summons*] you return to the Registrar of this Court at [*Place of Office*] the Notice given below, dated and signed by yourself, or your Attorney or your Agent, you will not afterwards be allowed to make any Defence to the Claim which [*Name, Description, and Address of Plaintiff*] makes on you, as per Margin, the Particulars of which are hereunto annexed; but the Plaintiff may, without giving any Proof in support of such Claim, proceed to Judgment and Execution. If you return such Notice to the Registrar within the Time specified, you must appear at a County Court to be holden at on the Day of 185 , at the Hour of in the noon, to answer the above Claim, which will be heard on that Day.

	£	s.	.
Claim -	...	...	...
Fee for Plaint -	...	...	...
Attorney's Costs -	...	...	...
Total Amount of Debts and Costs	...	...	...

Dated this Day of 185 .

______________ Registrar of the Court.

See Back.

Notice of Intention to defend.

No. [*of Plaint*]

In the [*Title of Court.*]

A.B. v. *C.D.*

I intend to defend this Cause.

Dated this Day of 185 .

__________ ([a]) Defendant.

([a]) Here must be signed the Name of Defendant, or of his Attorney or Agent, and in either of the last Two Cases the Words "Attorney for," or "Agent for," must be added.

[*To be indorsed on the Summons.*]

If you pay the Debt and Costs, as per Margin on the other Side, into the Registrar's Office, before the Day of Hearing, and without

returning the Notice of Intention to defend, you will avoid further Costs.

If you do not return the Notice of Intention to defend, but allow Judgment against you by Default, you will *save Half the Hearing Fee*, and the Order upon such Judgment will be to pay the Debt and Costs forthwith [*or* by Instalments, *to be specified, as in Plaintiff's written Consent*].

If you admit a Part only of the Claim, you must return the Notice of Intention to defend within the specified Time; and you may, by paying into the Registrar's Office the Amount so admitted, together with Costs proportionate to the Amount you pay in, Six clear Days before the Day of Hearing, avoid further Costs, unless the Plaintiff at the Hearing shall prove a Claim against you exceeding the Sum so paid.

If you intend to rely on a Set-off, Infancy, Coverture, a Statute of Limitations, or a Discharge under a Bankrupt or Insolvent Act, as a Defence, you must, in addition to the Notice of Intention to defend, give to the Registrar Notice of such special Defence Six clear Days before the Day of hearing; and such last mentioned Notice must contain the Particulars required by the Rules of the Court; and you must deliver to the Registrar as many Copies of such Notice as there are Plaintiffs, and an additional Copy for the Use of the Court. If your Defence be a Set-off, you must, with the Notice thereof, also deliver to the Registrar a Statement of the Particulars thereof. If your Defence be a Tender, you must pay into Court, before or at the Hearing, the Amount tendered.

If you give such Notice of Intention to defend within the Time specified, you may have the Case tried by a Jury, on giving Notice in Writing at the Registrar's Office, Two clear Days before the Hearing, and on Payment of Five Shillings for the Use of such Jury.

Summonses for Witnesses and the Production of Documents may be obtained gratis at the Office of any Registrar of a County Court.

Hours of Attendance at the Office of the Registrar of this Court at [*Place of Office*] from Ten till Four.

This Summons must be served *personally* on the Defendant Twelve clear Days before the Day appointed for the Hearing.

No. 2.

Summons for Commitment.

In the [*Title of Court issuing Summons*].

[*Seal.*] No. [*of Summons*].

No. [*of Judgment or Order*].

BETWEEN *A.B.*, Plaintiff,
and
C.D., Defendant.

Whereas the Plaintiff obtained a Judgment [*or if no Judgment has been obtained, or if a fresh Order has been obtained upon a Judgment,*

an Order] against you in the County Court of on the Day of 185 , for the Payment of £ for Debt [*or* Damages], and £ for Costs, upon which Judgment [*or* Order], and the subsequent Process issued thereon, the Sum of £ is now due: You are therefore hereby summoned to appear personally in this Court at [*Place where Court holden*] on the Day of 185 , at the Hour of o'Clock in the noon, to be examined by the Court touching your Estate and Effects, and the Circumstances under which you contracted the said Debt [*or* incurred the said Damages], and as to the Means and Expectation you then had, and as to the Means you still have, of discharging the said Debt [*or* Damages], and as to the Disposal you may have made of any Property. And take notice, that if you disobey this Summons the Court may commit you to Prison.

Dated this Day of , 185 .

________________ Registrar of the Court.

Hours of Attendance at the Office of the Registrar of this Court [*Place of Office*] from Ten till Four.

When issued under this Act, insert

"Issued by Leave of the Judge."

No. 3.

Warrant of Commitment.

In the [*Title of Court ordering Committal*].

[*Seal.*] No. [*of Commitment*].

No. [*of Judgment Summons*].

BETWEEN *A.B.*, Plaintiff,
and
C.D., Defendant.

To the High Bailiff and others the Bailiffs of the said Court, and all Peace Officers within the Jurisdiction of the said Court, and to the Governor or Keeper of the [*Prison used by the Court*].

Whereas the Plaintiff obtained a Judgment [*or* Order] against the Defendant in the County Court of on the Day of 185 , for the Payment of £ for Debt [*or* Damages] and Costs, upon which Judgment [*or* Order], and the subsequent Process issued thereon, the Sum of £ was at the Date of the issuing of the Summons herein-after mentioned and still is due:

And whereas a Summons was, at the Instance of the Plaintiff, duly issued out of this Court, by which the Defendant was required to

appear at this Court on the Day of 185 , to answer such Questions as might be put to him pursuant to Section Ninety-eight of the Statute 9th and 10th Victoria, Chapter 95., in relation to such Debt [*or* Damages], which Summons was proved to this Court to have been personally and duly served on the Defendant:

And whereas this Court, at the Hearing of the said Summons, ordered that the Defendant should be committed to Prison for Days, for [*as the Case may be*] not appearing pursuant to such Summons, or alleging a sufficient Excuse for not so appearing;

[*or* for refusing to be sworn];

[*or* for refusing to answer such Questions as aforesaid to the Satisfaction of the Judge];

[*or* for contracting the said Debt under false Pretences, *or* by means of Fraud *or* Breach of Trust, *or* without reasonable Expectation of being able to pay the same];

[*or* for making a Gift or Transfer of Part of his Property, with Intent to defraud his Creditors];

[*or* for having charged, *or* removed, *or* concealed Part of his Property with Intent to defraud his Creditors];

[*or* for not having satisfied the said Judgment and Costs, having had sufficient Means and Ability so to do]:

These are therefore to require you the said High Bailiff, Bailiffs and others, to take the Defendant, and to deliver him to the Governor or Keeper of the [*Prison used by the Court*], and you the said Governor or Keeper to receive the Defendant, and him safely keep in the said Prison for Days from the Arrest under this Warrant, or until he shall be sooner discharged by due Course of Law.

Dated this [*insert Date of Order*] Day of 185 .

E.F.
Registrar of the Court.

	£.	*s.*	*d.*
Amount remaining due - - - -	...	...	...
Poundage for issuing this Warrant - -	...	...	...
Total -	...	...	...

This Warrant *remains in force One Year* from the Date thereof.

This Form to be applicable to all Judgments recovered at the Hearing, or by Default, or by Consent, and to all Orders within the Jurisdiction of the Court.

SCHE-

SCHEDULE C.

Table of Fees to be taken in the County Courts in Proceedings other than in Protection and Insolvency Cases.

For every Plaint,—Sixpence in the Pound.

No Fee shall be payable on any Application for a new Trial, or to set aside Proceedings, or in the Nature of a Scire facias, or for a Summons in an Interpleader, or for a Summons in respect of an unsatisfied Judgment.

For every Judgment by Consent under the 13 & 14 Vict. c. 61. ss. 8. or 9., and for every Judgment by Default,—One Shilling in the Pound.

For every Hearing,—Two Shillings in the Pound.

An additional Hearing Fee shall be taken for every new Trial.

The Hearing on Interpleader shall not be prepaid, but shall be estimated on the Amount of the Money or the Value of the Goods claimed, which Value, in case of Dispute, shall be assessed by the Judge, who at the Hearing shall direct by whom and when and how such Fee shall be paid.

No Fee shall be payable for hearing any Application for a New Trial, or to set aside Proceedings, or in the Nature of a Scire Facias, or for hearing a Summons in respect of an unsatisfied Judgment.

For every Jury,—Five Shillings shall be paid to the Registrar by the Party demanding the Jury, on such Demand, for the Use of the Jurors.

For issuing every Warrant against the Body or Goods,—Eighteenpence in the Pound on the Amount for which such Warrant shall issue.

For issuing every Warrant to deliver Possession of Tenements,—Eighteenpence in the Pound.

For taking the Acknowledgment of a married Woman,—One Pound.

High Bailiff's Fees.

For keeping Possession of Goods till Sale, per Day, (including Expenses of Removal, Storeage of Goods, and all other Expenses,) not exceeding Five Days, except in Cases of Interpleader,—Sixpence in the Pound on the Value of the Goods seized, to be fixed by Appraisement in case of Dispute.

Brokers and Appraisers Fees.

For the Appraisement of Goods, whether by One Broker or more,—Sixpence in the Pound on the Value of the Goods appraised, over and above the Stamp Duty.

For the Sale of Goods, including Advertisements, Catalogues, Sale and Commission, and Delivery of Goods,—One Shilling in the Pound on the net Produce of Sale.

In all Plaints for the Recovery of Debt or Damages, all Poundage, except where otherwise specified in this Schedule, shall be estimated on the Amount of the Claim.

In Replevins all Poundage, except as aforesaid, shall be estimated on the Amount of the alleged Rent or Damage, to be fixed by the Registrar.

In Plaints for the Recovery of Tenements when the Term has expired or been determined by Notice, all Poundage, except as aforesaid, shall be estimated on the Amount of the weekly, monthly, or yearly Rent of the Tenement, as such Tenement shall have been let by the Week or by the Month, or for any longer Period; and if no Rent shall have been reserved, then on the Amount of the Half-yearly Value of the Tenement, to be fixed by the Registrar.

If in any Plaint for the Recovery of Tenements a Claim be made for Rent or Mesne Profits, an additional Poundage shall be paid on the Amount of such Claim.

In Plaints for the Recovery of Tenements for Nonpayment of Rent, all Poundage, except as aforesaid, shall be estimated on the Amount of the Half-yearly Rent of the Tenement.

In Plaints for the Recovery of mortgaged Tenements, all Poundage, except as aforesaid, shall be estimated on the Amount of the principal Mortgage Debt.

In every Case where the Poundage would but for this Rule be estimated on an Amount exceeding Twenty Pounds, it shall be estimated at Twenty Pounds only.

In every Case where the Poundage cannot be estimated by any Rule in this Schedule, it shall be estimated on Twenty Pounds.

All Fractions of a Pound, for the Purpose of calculating Poundage, shall be treated as an entire Pound.

Where the Plaintiff recovers less than the Amount of his Claim, so as to reduce the Scale of Costs, he shall pay the Difference, unless the Reduction shall be caused by a Set-off.

No Increase of Fees shall be made by reason of there being more than One Plaintiff or Defendant.

No other Fees shall be taken on any account.

SCHEDULE D.

	£
R. Brandt, Esquire, Judge of the County Court of Lancashire, holden at Manchester	1,500
F. Bayley, Esquire, Judge of the Westminster County Court of Middlesex	1,500
J. Pollock, Esquire, Judge of the County Court of Lancashire, holden at Liverpool	1,500

	£
J. L. Adolphus, Esquire, Judge of the Marylebone County Court of Middlesex; the Brompton County Court of Middlesex; and the County Court of Middlesex holden at Brentford	1,500
Mr. Serjeant Storks, Judge of the Shoreditch and Bow County Courts of Middlesex	1,500
J. Pitt Taylor, Esquire, Judge of the Lambeth County Court of Surrey, and the County Court of Kent holden at Greenwich and Woolwich	1,500
W. Walker, Esquire, Judge of the County Courts of Yorkshire, holden at Barnsley, Doncaster, Goole, Rotherham, Sheffield, and Thorne	1,500
T. H. Marshall, Esquire, Judge of the County Courts of Yorkshire, holden at Leeds, Dewsbury, Pontefract, and Wakefield	1,500
J. W. Harden, Esquire, Judge of the County Courts of Cheshire, holden at Altrincham, Birkenhead, Chester, Knutsford, Nantwich, Northwich, and Runcorn; and of the County Courts of Lancashire, holden at Salford and Warrington	1,500
Mr. Serjeant Clarke, Judge of the County Courts of Staffordshire, holden at Oldbury, Wallsall, and Wolverhampton; and of the County Court of Worcestershire, holden at Dudley	1,500
George Clive, Esquire, Judge of the Southwark County Court of Surrey	1,500
D. D. Heath, Esquire, Judge of the Bloomsbury County Court of Middlesex	1,500
Mr. Serjeant Jones, Judge of the Clerkenwell County Court of Middlesex	1,500
J. Stansfeld, Esquire, Judge of the County Courts of Yorkshire, holden at Halifax, Holmfirth, Huddersfield, and Todmorden	1,500
Mr. Serjeant Manning, Judge of the Whitechapel County Court of Middlesex	1,500
Leigh Trafford, Esquire, Judge of the County Courts of Warwickshire, holden at Atherstone, Birmingham, and Tamworth	1,500
J. Addison, Esquire, Judge of the County Courts of Lancashire, holden at Blackburn, Burnley, Clitheroe, Colne, Garstang, Kirkham, Lancaster, Poulton, and Preston	1,500
Mr. Serjeant Dowling, Judge of the County Courts of Yorkshire, holden at Easingwold, Knaresborough, Leyburn, Northallerton, Richmond, Ripon, Selby, Stokesley, Thirsk, Wetherby, Whitby, and York	1,500

F. Dinsdale, Esquire, Judge of the County Court of Leicestershire, holden at Lutterworth; of the County Court of Northamptonshire, holden at Daventry; of the County Court of Oxfordshire, holden at Banbury; of the County Courts of Warwickshire, holden at Alcester, Coventry, Nuneaton, Rugby, Solihull, Southam, Stratford-on-Avon, and Warwick; and of the County Court of Worcestershire, holden at Shipston - - -	1,350
W. Furner, Esquire, Judge of the County Courts of Sussex, holden at Arundel, Brighton, Chichester, Cuckfield, East Grinstead, Hastings, Horsham, Lewes, Midhurst, Petworth, Rye, and Worthing - - - -	1,350

County Courts Acts Amendment.

A

BILL

INTITULED

An Act to amend the Acts relating to the County Courts.

(*Brought from the Lords* 16 *June* 1856.)

Ordered, by The House of Commons, *to be Printed,*
16 *June* 1856.

[Bill 179.]

Under 5 oz.

County Courts Acts Amendment Bill.

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Commencement of Act; Sect. 1.

Enactments in Schedule A. repealed; 2.

Act to be construed with former Acts relating to County Courts; 3.

Provisions of Acts to apply to Debts not exceeding 20*l.*; 4.

Time and Mode of doing certain Things to be regulated by Rules of Practice; 5.

Qualification of Deputy Judge; 6.

Where a Court cannot be held on account of Death, Illness, &c. Proceedings to stand adjourned; 7.

Clerk to be called Registrar; 8.

Lord Chancellor may permit Registrar or Assistant Clerk to reside out of the District; 9.

Lord Chancellor may direct a Registrar of more than One Court to cease to be the Registrar of certain Courts; 10.

Compensations to Registrars; 11.

Deputy Judge to continue to act after Death of Judge; 12.

Deputy Registrar to continue to act after Death or Removal of Registrar; 13.

Who to act as Registrar on his Death or Removal without having appointed a Deputy; 14.

Bailiffs shall continue to act after Death of High Bailiff; 15.

Who may discharge Duties of High Bailiff on his Death or Removal; 16.

Bailiff may serve Summons or execute Process within Five hundred Yards of Boundary of District; 17.

Districts of the Courts in the Metropolis to be treated as One District for certain Purposes; 18.

Where Judge of County Court can sue and be sued; 19.

If Officer of Court be Plaintiff in his Court, Defendant may remove the Cause to an adjoining District; 20.

Where Officer of County Court may be sued; 21.

Power to change Venue; 22.

In certain Cases, on Agreement of the Parties, County Court shall have Power to try Causes, although the Matters be beyond its Jurisdiction; 23.

Where Claim reduced by Set-off to 50*l.*, Court to have Jurisdiction; 24.

Where Title to any corporeal Hereditament shall come in question, Court, with Consent of Parties at Trial, may decide the Claim; 25.

In certain Cases a Judge of a Superior Court may direct a Cause brought in such Court to be tried in a County Court; 26.

No Action to be brought in County Court on Judgment of Superior Court; 27.

If liquidated Demand exceed 20*l.*, Plaintiff may require Defendant to give Notice of Intention to defend, or suffer Judgment by Default; 28.

If Notice to defend given, Action shall be tried; 29.

In certain Cases of Judgment by Default, Costs may be recovered; 30.

Judge may issue Warrant for bringing up a Prisoner to give Evidence; 31.

Judges to make Rules and Orders for regulating Practice of Courts; to be certified to Lord Chancellor and submitted to Three or more Judges of Superior Courts; 32.

Scale of Costs in certain Proceedings to be framed by the Judges; 33.

Taxation of Costs; 34, 35.

Costs between Attorney and Client; 36.

Till new Scale of Costs and Rules, &c. made, former Practice to continue; 37.

Certiorari may be granted in certain Cases; 38.

Rule or Summons to show Cause why a Writ of Certiorari or Prohibition should not issue to be Stay of Proceedings; 39.

In certain Cases Defendant may object to Cause being tried in the County Court; 40.

Notice of Writ of Certiorari or Prohibition having been obtained to be sent to Registrar; 41.

Application for Writ of Prohibition to a Judge shall be finally disposed of by Rule or Order; 42.

Rule or Order substituted for Writ of Mandamus to a Judge or Officer of a County Court; 43.

Refusal of Writ of Certiorari or Prohibition or of Rule or Order in the Nature of a Mandamus by One Court or Judge to be final; 44.

Where Judgment does not exceed 20*l.*, the Judge may order Payment by Instalments; 45.

Priority of Warrants of Execution issuing out of County Court; 46.

Priority of Executions where issued out of Superior Court and County Court; 47.

Summons for Commitment may, by Leave of Court, issue in Court in which Judgment was obtained; 48.

Judgment may be removed if there are no Goods to be taken under it; 49.

Possession of small Tenements may be recovered in County Courts by Landlords where Term has expired or been determined by Notice; 50.

In Plaint for Recovery of Possession Plaintiff may claim for Rent and mesne Profits; 51.

Possession of small Tenements may be recovered in County Court by Landlords for Nonpayment of Rent; 52.

Sub-Tenant served with Summons to recover Possession must give Notice to his immediate Landlord, who may come in and defend; 53.

In Plaints to recover Possession of Premises how Summonses may be served; 54.

Warrants to deliver Possession sufficient Justification to Bailiffs for Entry on Premises. When such Warrants are to be served; 55.

Such Warrants to be in force for Three Months from the Day named for delivering Possession; 56.

Amendment; 57.

Before whom Affidavit may be sworn; 58.

Execution or Summons for Commitment may issue within Six Years from the Date of the Judgment; 59.

Warrants of Commitment, how long to be in force; 60.

No Officer or Party shall be deemed a Trespasser by reason of Irregularity; 61.

Commitment Summonses and Warrants of Commitment sufficient if in Form given in Schedule; 62.

Bankruptcy and Insolvency of Plaintiff, when not to abate Action; 63.

Registrar to grant Replevins; 64.

Replevins to be granted on Securities given; 65.

Replevins may be commenced in Superior Courts. Conditions of Security to be given in such Cases; 66.

Conditions of Security to be given when Replevin brought in County Court; 67.

Replevins shall, at Instance of Defendant, be removed into Superior Court in certain Cases; 68.

Appeal in Actions of Replevin, and Proceedings in Interpleader, and for Recovery of Tenements; 69.

Parties may agree not to appeal; 70.

How Securities under County Court Acts to be given and enforced; 71.

Where Security is required to be given a Deposit of Money may be made in lieu thereof; 72.

Claimant of Goods taken in Execution to deposit Value or pay Costs of keeping, otherwise Goods to be sold; 73.

Acknowledgments by married Women under 3 & 4 W. 4. c. 74. to be received by a Judge of a County Court; 74.

When Debtors Prison of County is distant from a Court, the nearest Debtors Prison of adjoining Court may by Order of a Secretary of State be used; 75.

When Goods seized under Process of County Court Landlord may claim certain Rent in arrear; 76.

Removal of Bonds from Registry of Common Pleas; 77.

Compensations to Officers of Hundred Court of Wirral in the County of Chester; 78.

Fees to be taken according to Schedule, and Table of Fees to be exhibited in Court and Registrar's Office; 79.

Treasury to regulate Fees to be taken in County Courts; 80.

Salaries of Judges to be paid out of Consolidated Fund; their Travelling Expenses to be voted; 81.

Salaries of the Judges; 82.

Registrars to be paid by Salaries; 83.

High Bailiffs to be paid partly by Salaries and partly by Fees; 84.

Salaries of Registrars and High Bailiffs to be paid out of Fees; 85.

Expense of building, &c. to be paid out of Monies to be provided by Parliament; 86.

SCHEDULES.

A

B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act to amend the Acts relating to the County Courts.

[Note.—*The Clauses* A. *to* N. *and Schedules* C. *and* D. *were added in Committee.*]

WHEREAS it is expedient to amend and extend the Provisions of the Acts relating to the County Courts established by the Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. The Provisions of this Act shall come into operation on the First Day of October in the Year of our Lord One thousand eight hundred and fifty-six, except the Provisions relating to framing a Scale of Costs and making Rules and Orders of Practice and Forms of Proceeding which shall come into operation on the passing of this Act. Commencement of Act.

II. The several Enactments specified in Schedule (A.) to this Act are hereby repealed, except as to Acts done under them. Enactments in Schedule A. repealed.

III. This Act and the Acts passed in the Sessions of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty, This Act to be construed with former

Acts relating to County Courts.

Majesty, Chapter Ninety-five, in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, Chapter One hundred and one, in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-one, and in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-four, shall be read and construed as One Act, as if the several Provisions in the said recited Acts contained, not inconsistent with the Provisions of this Act, were repeated and re-enacted in this Act.

CLAUSE A. Provisions of Acts to apply to Debts not exceeding 20*l.*

IV. The Provisions of this Act and of the recited Acts shall apply to any Debt not exceeding Twenty Pounds, although such Debt or any Part thereof shall be secured by or claimed upon Bill of Exchange or Promissory Note, and notwithstanding the Statute of the Eighteenth and Nineteenth of Victoria, Chapter Sixty-seven.

Time and Mode of doing certain Things to be regulated by Rules of Practice.

V. Where the Time within which, or where the Mode in which, any Proceeding should be taken in the County Court is not prescribed, either in this Act or in any Act relating to the County Courts, such Time and Mode shall be appointed by the Rules of Practice, Orders, and Forms, to be made as herein-after provided.

Qualification of Deputy Judge.

VI. Any Person hereafter to be appointed a Deputy to the Judge of a County Court shall be a Barrister-at-Law of Seven Years Standing, or shall have practised as a Barrister and Special Pleader for at least Seven Years, or shall be a Judge of a County Court.

Where a Court cannot be held Proceedings to stand adjourned.

VII. Where by reason of the Death or unavoidable Absence of the Judge a County Court cannot be held, the Registrar, or in the event of his unavoidable Absence, the High Bailiff, shall adjourn the Court to such Day as he may deem convenient, and enter in the Minute Book the Cause of such Adjournment.

Clerk to be called Registrar.

VIII. The Clerk of a County Court shall hereafter be called the Registrar of the Court.

Lord Chancellor may permit Registrar or Assistant Clerk to reside out of District.

IX. Notwithstanding Section Three of the Act of the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-one, a Registrar or Assistant Clerk appointed since the passing of that Act may reside out of the District of the Court or Courts for which he shall have been appointed, if the Lord Chancellor, or, where the whole of the District is within the Duchy of Lancaster, the Chancellor of the Duchy, shall, in the Exercise of his Discretion, on special Grounds, and on such Terms as he shall think fit to impose, grant Permission for that Purpose.

X. In any Case where it shall appear desirable for the Public Good that a Registrar of more than One Court should cease to be the Registrar of all or any of the Courts of which he is the Registrar, it shall be lawful for the Lord Chancellor, by an Order under his Hand, to direct that from and after a Day to be therein named such Registrar shall cease to be the Registrar of the Courts mentioned in such Order, and thereupon he shall cease to be the Registrar of such Courts from such Day as aforesaid.

CLAUSE B. Lord Chancellor may direct a Registrar of more than One Court to cease to be the Registrar of certain Courts.

XI. Every Person who shall, under the Provisions of the last Section, cease to be the Registrar of One or more County Courts, shall be entitled to receive, as Compensation for the Loss sustained by him thereby, an Annuity equal to One Fourth of the yearly Amount of the Fees received in such Court or Courts for the Use of the Registrar, calculated on an Average of the Five Years ended the Thirty-first Day of December One thousand eight hundred and fifty-five, and the Commissioners of Her Majesty Treasury are hereby empowered to award in each Case such Annuity, and to direct Payment of the same to be made out of any Monies to be provided by Parliament for that Purpose.

CLAUSE C. Compensations to Registrars.

XII. The Appointment of a Deputy of a Judge of a County Court, whether such Deputy shall have been appointed by the Judge, or by the Lord Chancellor, or by the Chancellor of the Duchy of Lancaster, shall not be vacated by the Death of the Judge, but his Acts done after such Death shall be as valid as if the Judge had not died, and he shall continue to act in all the Courts of the District of which the Deceased was Judge until the Lord Chancellor, or, where the whole of such District is within the Duchy of Lancaster, until the Chancellor of that Duchy, shall otherwise order, or a Successor to such Judge shall be appointed; and such Deputy shall receive as Remuneration for the Period that he may act as Deputy, after the Death of the Judge, such Sum as the Lord Chancellor shall direct, or if the Successor of the deceased Judge be appointed by the Chancellor of the Duchy of Lancaster, then as the said Chancellor of the Duchy shall direct, and such Sum shall be deducted from the Salary and Travelling Allowance of the Judge appointed to succeed the deceased Judge; and the Provisions of this Section shall apply to all Acts done by any Deputy prior to the Commencement of this Act.

Deputy of Judge to continue to act after Death of Judge.

XIII. The Appointment of a Deputy of a Registrar shall not be vacated by the Death or Removal of the Registrar, but his Acts done after such Death or Removal shall be as valid as if the Registrar had not died or been removed, and he shall continue to act until a Successor to such Registrar shall be appointed; and he shall receive

Deputy of Registrar to continue to act after Death or Removal of Registrar.

receive as Remuneration for his Services during the Period he may so act after the Death or Removal of the Registrar a rateable Proportion of the Salary attached to the Office of Registrar.

Who may discharge Duties of Registrar on his Death or Removal, without having appointed a Deputy.

XIV. On the Death or Removal of a Registrar who shall not have appointed a Deputy, the Judge may, for a Period not exceeding Three Months, provisionally appoint a Person to discharge the Duties of Registrar, and such Person shall act as and have all the Rights and Liabilities of a Registrar until a permanent Successor shall be appointed, and shall receive as Remuneration for his Services during the Period he may so act a rateable Proportion of the Salary attached to the Office of Registrar.

Assistant Bailiffs to continue to act after Removal of High Bailiff.

XV. The Appointment of the Bailiffs who are appointed to assist the High Bailiff shall not be vacated by the Death or Removal of the High Bailiff, but their Acts done after such Death or Removal shall be as valid as if the High Bailiff had not died or been removed, and had authorized such Acts, and they shall continue to act until they shall be dismissed by the Successor of the High Bailiff or by the Judge; and they shall be paid for their Services during the Period they shall so act after the Death or Removal of the High Bailiff the same Wages as they were receiving at the Date of such Death or Removal, and such Wages shall be paid out of the Salary and Allowances attached to the Office of High Bailiff.

Who may discharge Duties of High Bailiff on his Death or Removal.

XVI. On the Death or Removal of a High Bailiff, the Judge may, for a Period not exceeding Three Months, provisionally appoint a Person to discharge the Duties of High Bailiff, and such Person shall act as and have all the Rights and Liabilities of a High Bailiff until a permanent Successor shall be appointed, and shall receive as Remuneration for his Services during the Period he shall so act a rateable Proportion of the Salary and Allowances attached to the Office of High Bailiff.

Bailiff may serve Summons or execute Process within 500 Yards of District.

XVII. A Summons may be served, or a Warrant executed, within Five hundred Yards of the Boundary of the District of the County Court from which the same issued by the Bailiff of such Court, or by Order of the Judge of such Court, by such Bailiff within the District of any other Court.

Districts of the Courts in the Metropolis to be treated as One District for certain Purposes.

XVIII. Where a Plaintiff shall dwell or carry on Business in the District of the Bloomsbury County Court of Middlesex, or in the District of the Brompton County Court of Middlesex, or in the District of the Clerkenwell County Court of Middlesex, or in the District of the Lambeth County Court of Surrey, or in the District of the Marylebone County Court of Middlesex, or in the District of the Shoreditch County Court of Middlesex, or in the District of the Southwark County Court of Surrey, or in the District of the Westminster County Court of Middlesex, or in the District of the Whitechapel County Court of Middlesex, and the Defendant shall dwell or carry on Business in the District of any of the said Courts, the Summons may issue and be served either in the District in which the Plaintiff shall dwell or carry on Business, or in the District in which the Defendant shall dwell or carry on Business.

Where Judge of County Court can sue and be sued.

XIX. A Judge proposing to sue any Person dwelling or carrying on Business in any District of which he is the Judge may bring his Action in the County Court of any adjoining District of which he is not the Judge; and any Person proposing to sue a Judge may bring his Action in any County Court of a District adjoining the District of which the Defendant is Judge.

If Officer of Court be Plaintiff in his own Court, Defendant may remove the Cause to an adjoining District.

XX. If an Action be brought by an Officer of a County Court in the Court of which he is an Officer, except in case of the Registrar suing as Official Assignee, the Judge shall, at the Request of the Defendant, order that the Venue be changed, and that the Cause be sent for Hearing to the Court of some convenient District of which he is not the Judge; and the Registrar of the first-mentioned Court shall forthwith transmit by Post to the Registrar of such last-mentioned Court a certified Copy of the Plaint as entered in the Plaint Book, the duplicate Copy of the Summons and Particulars served on the Defendant, and a certified Copy of the Order for changing the Venue as entered in the Minute Book; and the Judge of such last-mentioned Court shall appoint a Day for the Hearing, Notice whereof shall be sent by Post or otherwise by the Registrar of such last-mentioned Court to both Parties.

Where Officer of County Court may be sued.

XXI. If an Action be brought against an Officer of a County Court, the Summons may issue in the District of which he is an Officer, or in any adjoining District the Judge of which is not the Judge of a Court of which the Defendant is an Officer.

Power to change Venue.

XXII. If a Judge of a County Court shall be satisfied by either Party to a Cause pending in his Court that such Cause can be more conveniently or fairly tried in some other County Court, he shall order that the Venue be changed, and that the Cause be sent for Hearing to such other County Court, or, if the Judge shall be interested in the Matter of any Cause pending in his Court, he shall order that the Venue be changed, and that the Cause be sent for

Hearing to some convenient County Court of which he is not the Judge, at his Discretion; and in either Case the Registrar of the Court in which the Plaint was entered shall forthwith transmit by Post to the Registrar of the Court to which the Cause is to be sent a certified Copy of the Plaint, as entered in the Plaint Book, the duplicate Copy of the Summons and Particulars served on the Defendant, and a certified Copy of the Order for changing the Venue, and the Judge of such last-mentioned Court shall appoint a Day for the Hearing, Notice whereof shall be sent by Post or otherwise by the Registrar to both Parties.

In certain Cases, on Agreement of the Parties, County Court shall have Power to try Causes, although the Matters be beyond its Jurisdiction.

XXIII. The County Courts shall not have Jurisdiction to try any Action for Criminal Conversation; but with respect to all other Actions, which may be brought in any Superior Court of Common Law, if both Parties shall agree by a Memorandum signed by them or their respective Attorneys that any County Court named in such Memorandum shall have Power to try such Action, such County Court shall have Jurisdiction to try the same.

Where Claim reduced by Set-off to 50*l*. Court to have Jurisdiction.

XXIV. Where in any Action the Debt or Demand claimed consists of a Balance not exceeding Fifty Pounds, after an admitted Set-off of any Debt or Demand claimed or recoverable by the Defendant from the Plaintiff, the Court shall have Jurisdiction to try such Action.

Where Title shall come in question, Court, with Consent of Parties at Trial, may decide the Claim.

XXV. In any Action in the County Court in which the Title to any corporeal or incorporeal Hereditament, or to any Toll, Fair, Market, or Franchise, shall incidentally come in question, the Judge shall have Power to decide the Claim which it is the immediate Object of the Action to enforce, if both Parties at the Hearing shall consent in any Writing signed by them or their Attorneys to the Judge having such Power; but the Judgment of the Court shall not be Evidence of Title between the Parties or their Privies in any other Action in that Court or in any Proceeding in any other Court; and such Consent shall not prejudice or affect any Right of Appeal of either of the Parties to such first-mentioned Action.

In certain Cases Superior Judge may order Cause to be tried in County Court.

XXVI. Where in any Action of Contract brought in a Superior Court the Claim indorsed on the Writ does not exceed Fifty Pounds, or where such Claim, though it originally exceeded Fifty Pounds, is reduced by Payment into Court, Payment, an admitted Set-off, or otherwise, to a Sum not exceeding Fifty Pounds, a Judge of a Superior Court, on the Application of either Party, after Issue joined, may, in his Discretion, and on such Terms as he shall think fit, order that the Cause be tried in any County Court which he shall name; and thereupon the Plaintiff shall lodge with the Registrar of such Court such Order and the

Issue; and the Judge of such Court shall appoint a Day for the Hearing of the Cause, Notice whereof shall be sent by Post or otherwise by the Registrar to both Parties or their Attorneys; and after such Hearing the Registrar shall certify the Result to the Master's Office of such Superior Court, and Judgment in accordance with such Certificate may be signed in such Superior Court.

No Action to be brought in County Court on Judgment of Superior Court.

XXVII. No Action shall be brought in a County Court on any Judgment of a Superior Court.

If liquidated Demand exceed 20*l.*, Plaintiff may require Defendant to give Notice of Intention to defend, on pain of Judgment by Default.

XXVIII. In any Action in a County Court for a Debt or liquidated Money Demand exceeding Twenty Pounds, the Plaintiff may, at his Option, cause to be issued either a Summons in the ordinary Form, or a Summons in the Form or to the Effect given in Schedule (B.) to this Act numbered (1); provided that if such last-mentioned Summons be issued it shall be personally served on the Defendant Twelve clear Days before the Return Day thereof, and then if the Defendant shall not at least Six clear Days before such Return Day give Notice in Writing, signed by himself, his Attorney or Agent, to the Registrar, of his Intention to defend, the Plaintiff may, on or within One Month after such Return Day, without giving any Proof of his Claim, have Judgment entered up against the Defendant for the Amount of his Claim and Costs, such Costs to be taxed by the Registrar; and the Order upon such Judgment shall be for Payment forthwith, or at such Time or Times, and by such Instalments, if any, as the Plaintiff or his Attorney or Agent shall in Writing have consented to take at the Time of the Entry of the Plaint.

If Notice to defend given, Action shall be tried. Registrar to tell Plaintiff whether Notice has or has not been given.

XXIX. If the Defendant shall give such Notice as in the last preceding Section is specified, the Action shall be heard in the ordinary Course; but in any event the Registrar shall, immediately after the last Day for giving such Notice, send a Letter to the Plaintiff by Post, stating therein whether the Defendant has or has not been served with such Summons, and whether he has or has not given Notice of his Intention to defend.

In certain Cases of Judgment by Default, Costs may be recovered.

XXX. Where an Action of Contract is brought in One of Her Majesty's Superior Courts of Record to recover a Sum not exceeding Twenty Pounds, and the Defendant in the Action suffers Judgment by Default, the Plaintiff shall recover no Costs, unless upon an Application to a Judge of such Court he shall otherwise direct.

Judge may issue Warrant for bringing up

XXXI. A Judge of a County Court, in any Case where he shall see fit, upon Application on Affidavit by either Party, may issue an a Prisoner to give Evidence.

Order under his Hand and the Seal of the Court for bringing up before such Court any Prisoner or Person confined in any Gaol, Prison, or Place, under any Sentence or under Commitment for Trial or otherwise, except under Process in any Civil Action, Suit, or Proceeding, to be examined as a Witness in any Cause or Matter depending, or to be inquired of or determined in or before such Court; and the Person required by any such Warrant or Order to be brought before such Court shall be so brought under the same Care and Custody, and be dealt with in like Manner in all respects, as a Prisoner required by any Writ of Habeas corpus awarded by any of Her Majesty's Superior Courts of Law at Westminster to be brought before such Court to be examined as a Witness in any Cause or Matter depending before such Court, is now by Law required to be dealt with: Provided always, that the Person having the Custody of such Prisoner or Person shall not be bound to obey such Order, unless a Tender be made to him of a reasonable Sum for the Conveyance and Maintenance of a proper Officer or Officers, and of the Prisoner or Person in going to, remaining at, and returning from such County Court.

Rules and Orders for County Court regulating Practice of County Courts, and Forms of Proceedings, to be framed by the Judges.

XXXII. The Lord Chancellor may appoint Five County Court Judges, and from Time to Time fill up any Vacancies in their Number, to frame Rules and Orders for regulating the Practice of the Courts, and Forms of Proceedings therein, and from Time to Time to amend such Rules, Orders, and Forms; and such Rules, Orders, and Forms, or amended Rules, Orders, and Forms, certified under the Hands of such Judges or any Three or more of them, shall be submitted to the Lord Chancellor, who may allow or disallow or alter the same; and the Rules, Orders, and Forms, or amended Rules, Orders, and Forms, so allowed or altered, shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

Scale of Costs to be allowed to Attorneys in certain Proceedings in County Courts to be framed by the Judges.

XXXIII. With respect to Proceedings in the County Courts, in Actions where the Debt or Damage claimed exceeds Twenty Pounds, the Five County Court Judges mentioned in the last Section shall be empowered to frame a Scale of Costs and Charges to be paid to Counsel and Attorneys, and from Time to Time to amend such Scale; and such Scale or amended Scale, certified under the Hands of such Judges or any Three or more of them, shall be submitted to the Lord Chancellor, who may allow or disallow or alter the same; and the Scale or amended Scale so allowed or altered shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

XXXIV. With respect to such Proceedings as are specified in the last preceding Section, all Costs and Charges between Party and Party shall be taxed by the Registrar of the Court in which such Costs and Charges were incurred, but his Taxation may be reviewed by the Judge of the Court, on the Application of either Party; and no Costs or Charges shall be allowed on such Taxation which are not sanctioned by the Scale then in force.

Costs of Attorney in certain Proceedings in County Courts shall be taxed by Registrar as between Party and Party.

XXXV. With respect to such Proceedings as are last hereinbefore specified, all Costs and Charges between Attorney and Client shall, on the Application either of the Attorney or Client, but not otherwise, be taxed by the Registrar of the Court in which such Costs and Charges were incurred, but his Taxation may be reviewed by the Judge of the Court, on the Application of either Party; and no Costs or Charges shall be allowed on such Taxation which are not sanctioned by the Scale then in force, unless the Registrar shall be satisfied that the Client has agreed in Writing to pay them, in which Case they may be allowed; and no Attorney shall have a Right to recover from his Client any Costs or Charges in respect of such Proceedings, unless they shall have been allowed, either on such Taxation, or on the Taxation of a Master of a Superior Court of Common Law or of the Court of Chancery.

Costs of Attorney in certain Proceedings in County Courts may be taxed by Registrar as between Attorney and Client.

XXXVI. Where in any Action the Debt or Damage claimed shall not exceed Twenty Pounds, an Attorney shall not be entitled to recover from his Client any further Costs or Charges in the Conduct of such Suit than those mentioned in the Ninety-first Section of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, unless upon Taxation of Costs the Registrar be satisfied, by Writing under the Hand of the Client, that he has agreed to pay further Costs or Charges; and in such Case the Registrar may allow any Costs or Charges not exceeding the Amount which may have been so agreed to be paid.

Costs between Attorney and Client.

XXXVII. Until the Scale of Costs and Charges, and the Rules, Orders, and Forms mentioned herein, shall respectively be in force, the Scale of Costs and Charges, and the Rules, Orders, and Forms, respectively in operation in the County Courts at the Time of passing this Act, so far as the same are not inconsistent with this Act, shall continue in force.

Till new Scale of Costs, and Rules and Orders, and Forms, made, former Practice to continue.

XXXVIII. Any Action commenced in a County Court for a Claim not exceeding Five Pounds may be removed by Writ of Certiorari into a Superior Court, if such Superior Court or a Judge of a Superior Court shall deem it desirable that the Cause shall be tried

Certiorari may be granted in certain Cases, at Discretion of Superior

Judge, on Security given.

tried in such Superior Court; and if the Party applying for such Writ shall give Security, to be approved of by One of the Masters of such Superior Court, for the Amount of the Claim, and the Costs of the Trial, not exceeding in all One hundred Pounds, and shall further assent to such Terms, if any, as the Superior Court or Judge shall think fit to impose:

Rule or Summons to show Cause why a Writ of Certiorari or Prohibition should not issue to be a Stay of Proceedings.

XXXIX. The granting by any of the Superior Courts or by any Judge thereof of a Rule or Summons to show Cause why a Writ of Certiorari or Prohibition should not issue to a County Court, shall, if the Superior Court or a Judge thereof so direct, operate as a Stay of Proceedings in the Cause to which the same shall relate until the Determination of such Rule or Summons, or until such Superior Court or Judge shall otherwise order; and the Judge of the County Court shall from Time to Time adjourn the Hearing of such Cause to such Day as he shall think fit until such Determination or until such Order be made; but if a Copy of such Rule or Summons shall not be served by the Party who obtained it on the opposite Party and on the Registrar of the County Court Two clear Days before the Day fixed for the Hearing of the Cause, the Judge of the County Court may in his Discretion order the Party who obtained the Rule or Summons to pay all the Costs of the Day, or so much thereof as he shall think fit, unless the Superior Court or a Judge thereof shall have made some Order respecting such Costs.

In certain Cases Defendant may object to Cause being tried in the County Court.

XL. If in any Action of Contract the Plaintiff shall claim a Sum exceeding Twenty Pounds, or if in any Action of Tort the Plaintiff shall claim a Sum exceeding Five Pounds, and the Defendant shall give Notice that he objects to the Action being tried in the County Court, and shall give Security, to be approved of by the Registrar, for the Amount claimed, and the Costs of Trial, in One of the Superior Courts of Common Law, not exceeding in the whole the Sum of One hundred and fifty Pounds, all Proceedings in the County Court in any such Action shall be stayed; but if in any such Action the Defendant do not object to the same being tried by the County Court, or shall fail to give the Security aforesaid, the County Court shall dispose of the Cause in the usual Way; and the Entry of the Plaint in such Action shall be a sufficient Commencement of the Suit to prevent the Operation of any Statute of Limitation applicable to such Claim: Provided that nothing herein contained shall prevent the Removal of any Cause from a County Court by Writ of Certiorari in the Cases and subject to the Conditions in and subject to which such Cause may now be removed.

XLI. Where a Writ of Certiorari or of Prohibition addressed to a Judge of a County Court shall have been granted by a Superior Court or a Judge thereof, on an ex-parte Application, and the Party who obtained it shall not lodge it with the Registrar, and give Notice to the opposite Party that it has issued, Two clear Days before the Day fixed for hearing the Cause to which it shall relate, the Judge of the County Court may, in his Discretion, order the Party, who obtained the Writ, to pay all the Costs of the Day, or so much thereof as he shall think fit, unless the Superior Court or a Judge thereof shall have made some Order respecting such Costs.

Notice of Writ of Certiorari or Prohibition having been obtained to be sent to Registrar.

XLII. When an Application shall be made to a Superior Court or a Judge thereof for a Writ of Prohibition to be addressed to a Judge of a County Court, the Matter shall be finally disposed of by Rule or Order, and no Declaration or further Proceedings in Prohibition shall be allowed.

Application for Writ of Prohibition to a Judge shall be finally disposed of by Rule or Order.

XLIII. No Writ of Mandamus shall henceforth issue to a Judge or an Officer of the County Court for refusing to do any Act relating to the Duties of his Office; but any Party requiring such Act to be done may apply to any Superior Court or a Judge thereof, upon an Affidavit of the Facts for a Rule or Summons calling upon such Judge or Officer of a County Court, and also the Party to be affected by such Act, to show Cause why such Act should not be done; and if after the Service of such Rule or Summons good Cause shall not be shown, the Superior Court or Judge thereof may by Rule or Order direct the Act to be done, and the Judge or Officer of the County Court, upon being served with such Rule or Order, shall obey the same on pain of Attachment; and in any event the Superior Court or the Judge thereof may make such Order with respect to Costs as to such Court or Judge shall seem fit.

Rule or Order substituted for Writ of Mandamus to a Judge or Officer of a County Court.

XLIV. When any Superior Court or a Judge thereof shall have refused to grant a Writ of Certiorari or of Prohibition to be addressed to a Judge, or such Rule or Order as in the last preceding Section is specified, no other Superior Court or Judge thereof shall grant such Writ or Rule or Order; but nothing herein shall affect the Right of appealing from the Decision of the Judge of the Superior Court to the Court itself, or prevent a Second Application being made for such Writ or Rule or Order to the same Superior Court or a Judge thereof on Grounds different from those on which the First Application was founded.

Refusal of Writ of Certiorari or Prohibition or of Rule or Order in the Nature of a Mandamus by One Court or Judge to be final.

XLV. Where Judgment has been obtained in a County Court for a Sum not exceeding Twenty Pounds, exclusive of Costs, the Judge

Where Judgment does not exceed

20*l.*, Judge may order Payment by Instalments; in other Cases, Consent of Plaintiffs necessary.

Judge may order such Sum and the Costs to be paid at such Time or Times, and by such Instalments, if any, as he shall think fit, and all such Monies shall be paid into Court; but in all other Cases he shall order the full Amount for which Judgment has been obtained to be paid either forthwith, or within Fourteen clear Days from the Date of the Judgment, unless the Plaintiff, or his Counsel, Attorney, or Agent, will consent that the same shall be paid by Instalments, in which Case the Judge shall order the same to be paid at such Time or Times, and by such Instalments, if any, as shall be consented to, and all such Monies, whether payable in One Sum or by Instalments, shall be paid into Court.

Priority of Executions issuing out of County Court.

XLVI. The precise Time when any Application shall be made to a Registrar to issue a Warrant against the Goods of a Party shall be entered by him in the Execution Book and on the Warrant; and when more than One such Warrant shall be delivered to the High Bailiff to be executed he shall execute them in the Order of the Times so entered.

Priority of Executions issuing out of Superior Court and County Court.

XLVII. When a Writ against the Goods of a Party has issued from a Superior Court, and a Warrant against the Goods of the same Party has issued from a County Court, the Right to the Goods seized shall be determined by the Priority of the Time of the Delivery of the Writ to the Sheriff to be executed, or of the Application to the Registrar for the Issue of the Warrant to be executed; and the Sheriff, on Demand, shall, by Writing signed by any Clerk in the Office of the Under Sheriff, inform the High Bailiff of the precise Time of such Delivery of the Writ, and the Bailiff, on Demand, shall show his Warrant to any Sheriff's Officer, and such Writing purporting to be so signed, and the Endorsement on the Warrant, shall respectively be sufficient Justification to any High Bailiff or Sheriff acting thereon.

Summons for Commitment may, by Leave of Court, issue in Court in which Judgment was obtained.

XLVIII. A Judgment Summons authorized by the Ninety-eighth Section of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, may, by Leave of the Judge, be obtained from the Court in which Judgment was obtained, although the Judgment Debtor shall not then dwell or carry on Business within the District of such Court, if the Judge shall think fit, in the Exercise of his Discretion, to grant such Leave.

Judgment may be removed if there are no Goods to be taken under it.

XLIX. If a Judge of a Superior Court shall be satisfied that a Party against whom Judgment for an Amount exceeding Twenty Pounds, exclusive of Costs, has been obtained in a County Court, has no Goods or Chattels which can be conveniently taken to satisfy such

Judgment, he may, if he shall think fit, and on such Terms as to Costs as he may direct, order a Writ of Certiorari to issue to remove the Judgment of the County Court into One of the Superior Courts, and when removed it shall have the same Force and Effect, and the same Proceedings may be had thereon, as in the Case of a Judgment of such Superior Court; but no Action shall be brought upon such Judgment.

Possession of small Tenements may be recovered in County Courts by Landlords where Term has expired or been determined by Notice.

L. When the Term and Interest of the Tenant of any corporeal Hereditament, where neither the Value of the Premises nor the Rent payable in respect thereof shall have exceeded Fifty Pounds by the Year, and upon which no Fine or Premium shall have been paid, shall have expired, or shall have been determined either by the Landlord or the Tenant by a legal Notice to quit, and such Tenant, or any Person holding or claiming by, through, or under him, shall neglect or refuse to deliver up Possession accordingly, the Landlord may enter a Plaint, at his Option, either against such Tenant or against such Person so neglecting or refusing, in the County Court of the District in which the Premises lie for the Recovery of the same, and thereupon a Summons shall issue to such Tenant or such Person so neglecting or refusing; and if the Defendant shall not, at the Time named in the Summons, show good Cause to the contrary, then, on Proof of his still neglecting or refusing to deliver up Possession of the Premises, and of the yearly Value and Rent of the Premises, and of the holding, and of the Expiration or other Determination of the Tenancy, with the Time and Manner thereof, and of the Title of the Plaintiff if such Title has accrued since the letting of the Premises, and of the Service of the Summons if the Defendant shall not appear thereto, the Judge may order that Possession of the Premises mentioned in the Plaint be given by the Defendant to the Plaintiff, either forthwith or on or before such Day as the Judge shall think fit to name; and if such Order be not obeyed, the Registrar, whether such Order can be proved to have been served or not, shall at the Instance of the Plaintiff issue a Warrant authorizing and requiring the High Bailiff of the Court to give Possession of such Premises to the Plaintiff.

In Plaint for Recovery of Possession Plaintiff may claim for Rent and mesne Profits.

LI. In any such Plaint against a Tenant as in the last preceding Section is specified the Plaintiff may add a Claim for Rent or mesne Profits, or both, down to the Day appointed for the Hearing, or to any preceding Day named in the Plaint, so as the same shall not exceed Fifty Pounds, and any Misdescription in the Nature of such Claim may be amended at the Trial.

Possession of small Tenements may be recovered in County Court by Landlords for Non-payment of Rent.

LII. When the Rent of any corporeal Hereditament, where neither the Value of the Premises nor the Rent payable in respect thereof exceeds Fifty Pounds by the Year, shall for One Half Year be in arrear, and the Landlord shall have Right by Law to re-enter for the Nonpayment thereof, he may, without any formal Demand or Re-entry, enter a Plaint in the County Court of the District in which the Premises lie for the Recovery of the Premises, and thereupon a Summons shall issue to the Tenant, the Service whereof shall stand in lieu of a Demand and Re-entry; and if the Tenant shall Five clear Days before the Return Day of such Summons pay into Court all the Rent in arrear, and the Costs, the said Action shall cease, but if he shall not make such Payment, and shall not at the Time named in the Summons show good Cause why the Premises should not be recovered, then, on Proof of the yearly Value and Rent of the Premises, and of the Fact that One Half Year's Rent was in arrear before the Plaint was entered, and that no sufficient Distress was then to be found on the Premises to countervail such Arrear, and of the Landlord's Power to re-enter, and of the Rent being still in arrear, and of the Title of the Plaintiff if such Title has accrued since the letting of the Premises, and of the Service of the Summons if the Defendant shall not appear thereto, the Judge may order that Possession of the Premises mentioned in the Plaint be given by the Defendant to the Plaintiff on or before such Day, not being less than Four Weeks from the Day of Hearing, as the Judge shall think fit to name, unless within that Period all the Rent in arrear and the Costs be paid into Court; and if such Order be not obeyed, and such Rent and Costs be not so paid, the Registrar shall, whether such Order can be proved to have been served or not, at the Instance of the Plaintiff, issue a Warrant authorizing and requiring the High Bailiff of the Court to give Possession of such Premises to the Plaintiff, and the Plaintiff shall from the Time of the Execution of such Warrant hold the Premises discharged of the Tenancy, and the Defendant, and all Persons claiming by, through, or under him, shall, so long as the Order of the Court remains unreversed, be barred from all Relief in Equity or otherwise.

Sub-Tenant served with Summons to recover Possession must give Notice to his immediate Landlord, who may come in and defend.

LIII. Where any Summons for the Recovery of a Tenement as is herein-before specified shall be served on or come to the Knowledge of any Sub-Tenant of the Plaintiff's immediate Tenant, such Sub-Tenant being an Occupier of the whole or of a Part of the Premises sought to be recovered, he shall forthwith give Notice thereof to his immediate Landlord under Penalty of forfeiting Three Years Rackrent of the Premises held by such Sub-Tenant to such Landlord, to be recovered by such Landlord by Action in the Court from which

Summons shall have issued, and such Landlord, on the Receipt of such Notice, if not originally a Defendant, may be added or substituted as a Defendant to defend Possession of the Premises in question.

In Plaints to recover Possession of Premises how Summonses may be served.

LIV. A Summons for the Recovery of a Tenement may be served like other Summonses to appear to Plaints in County Courts; and if the Defendant cannot be found, and his Place of Dwelling shall either not be known or Admission thereto cannot be obtained for serving any such Summons, a Copy of the Summons shall be posted on some conspicuous Part of the Premises sought to be recovered, and such Posting shall be deemed good Service on the Defendant.

Warrants to deliver Possession sufficient Justification to Bailiffs for Entry on Premises.

When such Warrants are to be served.

LV. Any Warrant to a High Bailiff to give Possession of a Tenement shall justify the Bailiff named therein in entering upon the Premises named therein with such Assistants as he shall deem necessary, and in giving Possession accordingly; but no Entry upon any such Warrant shall be made except between the Hours of Nine in the Morning and Four in the Afternoon.

Such Warrants to be in force for Three Months from the Day named for delivering Possession.

LVI. Every such Warrant shall, on whatever Day it may be issued, bear Date on the Day next after the last Day named by the Judge in his Order for the Delivery of Possession of the Premises in question, and shall continue in force for Three Months from such Date and no longer, but no Order for Delivery of Possession need be drawn up or served.

Amendment.

LVII. The Judge of a County Court may at all Times amend all Defects and Errors in any Proceeding in such Court, whether there is anything in Writing to amend by or not, and whether the Defect or Error be that of the Party applying to amend, or not; and all such Amendments may be made with or without Costs, and upon such Terms as to the Judge may seem fit; and all such Amendments as may be necessary for the Purpose of determining in the existing Suit the real Question in controversy between the Parties shall be so made, if duly applied for.

Before whom Affidavit may be sworn.

LVIII. Any Affidavit to be used in a County Court may be sworn before a Judge or Registrar of a County Court, without the Payment of any Fee, or before a Commissioner to administer Oaths in Chancery in England, or a London Commissioner to administer Oaths in Chancery, or a Commissioner for taking Affidavits in any Superior Court, such Commissioners respectively not being Registrars, or before a Justice of the Peace.

Execution or Summons for Commitment may issue within Six Years from the Date of the Judgment.

LIX. A Warrant of Execution against the Goods, or a Summons for Commitment, may, with Leave of the Judge, issue on any Judgment or Order of a County Court within Six Years from the Date of such Judgment or Order.

Warrants of Commitment, how long to be in force.

LX. Every Warrant of Commitment which shall issue from a County Court shall, on whatever Day it may be issued, bear Date on the Day on which the Order for Commitment was made, and shall continue in force for One Year from such Date and no longer, but no Order for Commitment shall be drawn up or served.

No Officer or Party shall be deemed a Trespasser by reason of Irregularity.

LXI. No Officer of a County Court in executing any Warrant of a County Court, and no Person at whose Instance any such Warrant shall be executed, shall be deemed a Trespasser by reason of any Irregularity or Informality in any Proceeding on the Validity of which such Warrant depends, or in the Form of such Warrant, or in the Mode of executing it, but the Party aggrieved may bring an Action for any special Damage which he may have sustained by reason of such Irregularity or Informality against the Party guilty thereof, and in such Action he shall recover no Costs, unless the Damages awarded shall exceed Forty Shillings.

Commitment Summonses and Warrants of Commitment sufficient if in Form given in Schedule.

LXII. Any Judgment Summons issued out of a County Court under Section Ninety-eight of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, or under this Act, or any Warrant of Commitment in respect of an unsatisfied Judgment or Order of a County Court, may respectively be in the Form or to the Effect given in Schedule (B.) to this Act, numbered respectively (2.) and (3.); and all such Summonses or Warrants shall be deemed sufficient to justify Proceedings under them without any further Statement of Facts to show Jurisdiction.

Bankruptcy and Insolvency of Plaintiff, when not to abate Action.

LXIII. The Bankruptcy or Insolvency of the Plaintiff in any Action in a County Court, which the Assignees might maintain for the Benefit of the Creditors, shall not cause the Action to abate if the Assignees shall elect to continue such Action, and to give Security for the Costs thereof, within such reasonable Time as the Judge shall order, but the hearing of the Cause may be adjourned until such Election is made; and in case the Assignees do not elect to continue the Action, and to give such Security within the Time limited by the Order, the Defendant may avail himself of the Bankruptcy or Insolvency as a Defence to the Action.

Registrar to grant Replevins.

LXIV. The Powers and Responsibilities of the Sheriff with respect to Replevin Bonds and Replevins shall henceforth cease; and the

Registrar of the County Court of the District in which any Distress subject to Replevin shall be taken shall be empowered, subject to the Regulations herein-after contained, to approve of Replevin Bonds, and to grant Replevins, and to issue all necessary Process in relation thereto, and such Process shall be executed by the High Bailiff.

Replevins to be granted, on Securities given.

LXV. Such Registrar shall, at the Instance of the Party whose Goods shall have been distrained, cause the same to be replevied to such Party, on his giving one or other of such Securities as are mentioned in the next Two succeeding Sections.

Replevins may be commenced in Superior Courts.

Conditions of Security to be given in such Cases.

LXVI. An Action of Replevin may be commenced in any Superior Court in the Form applicable to Personal Actions therein, and such Court shall have Power to hear and determine the same; and if the Replevisor shall wish to commence Proceedings in any Superior Court, he shall, at the Time of replevying, give Security, to be approved of by the Registrar, for such an Amount as such Registrar shall deem sufficient to cover the alleged Rent or Damage in respect of which the Distress shall have been made, and the probable Costs of the Cause in a Superior Court, conditioned to commence an Action of Replevin against the Distrainer in such Superior Court as shall be named in the Security, within One Week from the Date thereof, and to prosecute such Action with Effect and without Delay, and unless Judgment thereon be obtained by Default, to prove before such Superior Court that he had good Ground for believing either that the Title to some corporeal or incorporeal Hereditament, or to some Toll, Market, Fair, or Franchise, was in question, or that such Rent or Damage exceeded Twenty Pounds, and to make Return of the Goods, if a Return thereof shall be adjudged.

Conditions of Security to be given when Replevin brought in County Court.

LXVII. If the Replevisor shall wish to commence Proceedings in a County Court, he shall at the Time of replevying give Security, to be approved of by the Registrar, for such an Amount as such Registrar shall deem sufficient to cover the alleged Rent or Damage in respect of which the Distress shall have been made, and the probable Costs of the Cause in the County Court, conditioned to commence an Action of Replevin against the Distrainer in the County Court of the District in which the Distress shall have been taken, within One Month from the Date of the Security, and to prosecute such Action with Effect and without Delay, and to make Return of the Goods, if a Return thereof shall be adjudged.

Replevins shall, at Instance of Defendant, be removed

LXVIII. Any Action of Replevin brought in a County Court shall be removed into any Superior Court by Writ of Certiorari, if the Defendant shall apply to such Superior Court or to a Judge there for into Superior Court by Certiorari, in certain Cases.

for such Writ, and shall give Security, to be approved of by the Master of such Superior Court, for such Amount, not exceeding One hundred and fifty Pounds, as such Master shall think fit, conditioned to defend such Action with Effect, and, unless the Replevisor shall discontinue or shall not prosecute such Action, or become nonsuit therein, to prove before such Superior Court that the Defendant had good Ground for believing, either that the Title to some corporeal or incorporeal Hereditament, or to some Toll, Market, Fair, or Franchise, was in question, or that the Rent or Damage in respect of which the Distress shall have been taken exceeded Twenty Pounds; and every such Superior Court shall have Power to determine the same Action.

Appeal in Actions of Replevin, and Proceedings in Interpleader, and for Recovery of Tenements.

LXIX. An Appeal from the Decision of a County Court, on the same Grounds and subject to the same Conditions as are provided by the Fourteenth Section of the Act of the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-one, shall be allowed in all Actions of Replevin where the Amount of Rent or Damage exceeds Twenty Pounds, and in all Actions for the Recovery of Tenements where the yearly Rent or Value of the Premises exceeds Twenty Pounds, and in Proceedings in Interpleader where the Money claimed or the Value of the Goods or Chattels claimed, or of the Proceeds thereof, exceeds Twenty Pounds, and in all Actions and Proceedings where the Sum claimed exceeds Twenty Pounds.

Parties may agree not to appeal.

LXX. No Appeal shall lie from the Decision of a County Court, if before such Decision is pronounced both Parties shall agree, in Writing signed by themselves or their Attorneys or Agents, that the Decision of the Judge shall be final, and no such Agreement shall require a Stamp.

How Securities under County Court Acts to be given and enforced.

LXXI. Where by this Act, or any Act relating to the County Courts, a Party is required to give Security, such Security shall be at the Cost of the Party giving it, and in the Form of a Bond, with Sureties, to the other Party or intended Party in the Action or Proceeding; Provided always, that the Court in which any Action on the Bond shall be brought may by Rule or Order give such Relief to the Obligors as may be just, and such Rule or Order shall have the Effect of a Defeasance of such Bond.

Where Security is required to be given, a Deposit of Money may

LXXII. Where by this Act or any Acts relating to the County Courts a Party is required to give Security, he may in lieu thereof deposit with the Registrar, if the Security is required to be given in a County Court, or with a Master of the Superior Court if the

Security is required to be given in such Court, a Sum equal in Amount to the Sum for which he would be required to give Security, together with a Memorandum, to be approved of by such Registrar or Master, and to be signed by such Party, his Attorney or Agent, setting forth the Conditions on which such Money is deposited, and the Registrar or Master shall give to the Party paying a written Acknowledgment of such Payment; and the Judge of the County Court, when the Money shall have been deposited in such Court, or a Judge of the Superior Court when the Money shall have been deposited in a Superior Court, may, on the same Evidence as would be required to enforce or avoid such Bond as in the last preceding Section is mentioned, order such Sum so deposited to be paid out to such Party or Parties as to him shall seem just.

be made in lieu thereof.

Claimant of Goods taken in Execution must deposit their Values or pay Costs of keeping Possession, otherwise Goods shall be sold.

LXXIII. Where any Claim shall be made under Section One hundred and eighteen of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, to or in respect of any Goods taken in Execution under the Process of a County Court, the Claimant may deposit with the Bailiff either the Amount of the Value of the Goods claimed, such Value to be fixed by Appraisement in case of Dispute, to be by such Bailiff paid into Court, to abide the Decision of the Judge upon such Claim, or the Sum which the Bailiff shall be allowed to charge as Costs for keeping Possession of such Goods until such Decision can be obtained, and in default of the Claimant so doing the Bailiff shall sell such Goods as if no such Claim had been made, and shall pay into Court the Proceeds of such Sale, to abide the Decision of the Judge.

Acknowledgments by married Women under 3 & 4 W. 4. c. 74. to be received by Judge of a County Court.

LXXIV. Any Acknowledgment to be made by any married Woman of any Deed under the Act of the Third and Fourth Years of the Reign of His late Majesty King William the Fourth, Chapter Seventy-four, may be received by a Judge of a County Court in the same Manner as such Acknowledgment may be received by a Judge of a Superior Court.

Clause D.

When Debtors Prison of County is distant from a Court, the nearest Debtors Prison of adjoining Court may, by Order of a Secretary of State, be used.

LXXV. When any Prison wherein any Person committed by a County Court may be confined is situated at an inconvenient Distance from such Court, One of Her Majesty's Principal Secretaries of State may, by Order under his Hand, direct that Persons committed by such Court shall be confined in any other Prison named in such Order to which Persons may be committed from any other County Court, though such Prison may be in a different County, District, City, Borough, or Place from that in which such first-mentioned Court shall be held; but every Person so confined shall be supported at the Expense of the County, District, City, Borough, or Place in which he shall have resided at the Time of his Committal; and the Order of the Secretary of State shall direct in what Manner the Treasurer of the said County, District, City, Borough, or Place shall repay to the Treasurer of the County, District, City, Borough, or Place in which such Person shall be so confined the Expense of his Support.

When Goods seized under Process of County Court Landlord may claim certain Rent in arrear.

LXXVI. Section One of the Act of the Eighth Year of the Reign of Queen Anne, Chapter Fourteen, shall not apply to Goods taken in Execution under the Warrant of a County Court, but the Landlord of any Tenement in which any such Goods shall be so taken may claim the Rent thereof at any Time within Five clear Days from the Date of such taking, or before the Removal of the Goods, by delivering to the Bailiff or Officer making the Levy any Writing signed by himself or his Agent, which shall state the Amount of Rent claimed to be in arrear, and the Time for and in respect of which such Rent is due; and if such Claim be made, the Bailiff or Officer making the Levy shall in addition thereto distrain for the Rent so claimed and the Costs of such Distress, and shall not within Five Days next after such Distress sell any Part of the Goods taken, unless they be of a perishable Nature, or upon the Request in Writing of the Party whose Goods shall have been taken; and the Bailiff shall afterwards sell such of the Goods under the Execution and Distress as shall satisfy, first, the Costs of and incident to the Sale, next the Claim of such Landlord, not exceeding the Rent of Four Weeks where the Tenement is let by the Week, the Rent of Two Terms of Payment where the Tenement is let for any other Term less than a Year, and the Rent of One Year in any other Case, and lastly the Amount for which the Warrant issued; and if any Replevin be made of the Goods so taken, the Bailiff shall, notwithstanding, sell such Portion thereof as will satisfy the Costs of and incident to the Sale under the Execution, and the Amount for which the Warrant issued; and in either event the Overplus of the Sale, if any, and the Residue of the Goods, shall be returned to the Defendant; and the Poundage of the High Bailiff and Broker for keeping Possession, Appraisement, and Sale under such Distress, shall be the same as would have been payable if the Distress had been an Execution of the County Court, and no other Fees shall be demanded or taken in respect thereof.

Clause E. Removal of Bonds from Registry of Common Pleas.

LXXVII. If any Bond given under the Provisions of any Act relating to the County Courts shall have been registered in the Court of Common Pleas in England, and the Condition of such Bond shall have been satisfied, the Commissioners of Her Majesty's Treasury, by Certificate under the Hands of any Two of them, may authorize the proper Officer of the said Court to enter up Satisfaction on the Record of such Bond or Obligation.

CLAUSE F. Compensations to Officers of Hundred Court of Wirral in the County of Chester.

LXXVIII. From and after the passing of this Act, no Action or Suit shall be commenced in the Hundred or Wapentake Court of Wirral in the County of Chester, and the Authority and Jurisdiction of the said Court shall cease, and all Actions or Suits depending in the said Court shall be transferred, with all the Proceedings thereon, to the County Court for the District in which the respective Defendants shall then reside; and such Actions and Suits shall be dealt with and decided, as to the Costs of the same, as well as in other respects, according to the Practice of the County Court or of the said Hundred Court, according to the Discretion of the Judge of the County Court, which Court shall, for the Purpose of such Actions or Suits, be deemed to have all the Power and Jurisdiction possessed by the said Hundred Court before the passing of this Act; and every Person who is legally entitled to any Franchise or Office in or in respect of the said Hundred Court shall be entitled to make a Claim for Compensation to the Commissioners of Her Majesty's Treasury within Six Months after the passing of this Act; and the said Commissioners, in such Manner as they shall think fit, may inquire what was the Nature of the Franchise or Office, and what was the Tenure thereof, and what were the lawful Fees and Emoluments in respect of which such Compensation should be allowed; and the said Commissioners in each Case shall award such gross or yearly Sum, and for such Time as they shall think just to be awarded, upon consideration of the special Circumstances of each Case: Provided always, that if any Person holding any Office in the said Hundred Court shall be appointed to any Public Office or Employment, the Payment of the Compensation awarded to him under this Act, so long as he shall continue to receive the Salary or Emoluments of such Office or Employment, shall be suspended, if the Amount of such Salary or Emoluments be greater than the Amount of the Compensation, or, if not, shall be diminished by the Amount of such Salary or Emoluments; and the several Compensations herein-before granted shall be paid out of Monies to be voted by Parliament, and the Commissioners of Her Majesty's Treasury of the said United Kingdom are hereby authorized to pay the same accordingly.

CLAUSE G. Fees specified in Schedule to be taken, and Table of Fees to be exhibited in Court and Registrar's Office.

LXXIX. The Fees payable on Proceedings in the County Courts, other than Proceedings in Insolvency and Protection Cases, shall be those only which are specified in Schedule (C.) to this Act; and such Fees shall, except in Interpleaders, or where such Fees shall be payable in respect of keeping Possession, appraising or selling Goods seized, be paid in the first instance by the Party on whose Behalf any such Proceeding is to be taken, before such Proceeding is taken; and in default of the Payment of any Fees, Payment thereof shall, by Order of the Judge, be enforced by such Means as might be employed to recover any Debt adjudged by the Court to be paid; and a Table of all Fees shall be posted in some conspicuous Place in every Court House and in every Registrar's Office.

CLAUSE H. Treasury to regulate Fees to be taken in County Courts.

LXXX. The Commissioners of Her Majesty's Treasury from Time to Time, with the Consent of the Lord Chancellor, may lessen or increase the Fees which are specified in Schedule (C.) to this Act, or which are now payable on Proceedings in Insolvency or Protection Cases in the County Courts, and may substitute other Fees in lieu thereof, and may order new Fees to be paid on any Proceedings which are now or shall hereafter be authorized to be taken in such Courts.

CLAUSE I. Salaries of Judges to be paid out of Consolidated Fund; their Travelling Expenses to be voted.

LXXXI. The Salaries of the Judges of the County Courts shall be paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and the Commissioners of Her Majesty's Treasury are hereby empowered to pay the same accordingly; and the Sums which are now or may hereafter be allowed to them for Travelling Expenses shall be paid out of Monies that may be voted by Parliament for that Purpose.

CLAUSE K. Salaries of the Judges.

LXXXII. Whereas by the Fourteenth Section of the said Act passed in the Session of Parliament holden in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-four, it was enacted, that after the passing of the said Act the greatest Salaries to be received in any Case by the Judges of the County Courts should be One thousand five hundred Pounds, but that in no Case should any Judge be paid a less Salary than Twelve hundred Pounds: And whereas the Commissioners of Her Majesty's Treasury have ordered that the Salaries of the Judges whose Names are mentioned in the Schedule marked (D.) annexed to this Act should be fixed at the Amounts set opposite their respective Names in such Schedule, and such Salaries are now paid to such Judges accordingly: And whereas it is desirable that the Salaries of the Judges of the County Courts should be fixed by Parliament at One uniform Rate: Be it enacted, That every Judge of a County Court shall be paid a Salary of Twelve hundred Pounds a Year, and no more: Provided always, that the Judges mentioned in the said Schedule shall continue to receive the Salaries therein mentioned to be payable to them respectively so long as they shall continue to be Judges of the County Courts: And provided also, that nothing herein contained shall affect the Right or Title of any County Court Judge to receive any Sum or Sums of Money now or hereafter to be made payable to him for defraying his Travelling Expenses.

CLAUSE L. Registrars to be paid by Salaries.

LXXXIII. The Registrars of the Courts shall be paid by Salaries; and the Principle on which the said Salaries shall be so regulated shall be, that the Registrar of each Court in which the Plaints entered do not exceed the Number of Two hundred in a Year shall have an annual Salary of One hundred and twenty Pounds; and that in Courts where the Plaints exceed Two hundred in the Year the Salaries shall be increased by Sums of Five Pounds for every Twenty-five additional Plaints up to One thousand Plaints inclusive, and then by Sums of Four Pounds for every Twenty-five additional Plaints up to Six thousand inclusive; and in the Courts in which the Plaints exceed that Number the Amount of Salary shall be fixed by the said Commissioners, with the Consent of the Lord Chancellor; and such Salaries shall be confined to Proceedings within the ordinary and Common Law Jurisdiction of the Court: Provided always, that the Salary of any Registrar acting in a similar Capacity, or as Clerk, before the passing of the Act of the Ninth and Tenth Victoria, Chapter Ninety-five, in any Court mentioned in Schedule A. to that Act, shall not (exclusive of all Salaries to the Clerks to be employed by them as aforesaid, the Amount of such Salaries and the Number of such Clerks to be sanctioned and approved by the Commissioners of Her Majesty's Treasury,) be limited to any Sum less than the average Amount of the Fees and Emoluments of his Office during the Seven Years next before the passing of the said last-mentioned Act, such Amount to be ascertained by the Commissioners of Her Majesty's Treasury.

CLAUSE M. High Bailiffs to be paid partly by Salaries and partly by Fees.

LXXXIV. The High Bailiffs of the Courts shall be paid by Salaries to be fixed and regulated from Time to Time by the Commissioners of Her Majesty's Treasury, with the Consent of the Lord Chancellor, and shall, in addition to such Salaries, receive for their own Use the Fees appointed for keeping Possession of Goods under Executions.

CLAUSE N. Salaries of Registrars and High Bailiffs to be paid out of Fees.

LXXXV. The Salaries of the Registrars and High Bailiffs shall be paid out of the Produce of the Fees payable under the Provisions of this Act; and whenever the Amount of such Fees shall not be sufficient to pay such Salaries the Deficiency shall be made good out of any Monies to be provided by Parliament for that Purpose; and the Surplus which from Time to Time shall remain after Payment of the said Salaries shall be paid over to the Credit of the said Consolidated Fund.

Expense of building, &c. to be paid out of Monies to be provided by Parliament.

LXXXVI. The Expense of building, purchasing, or providing any Messuages and Lands for the Purposes of the County Courts, and of repairing, furnishing, cleaning, lighting, and warming the Court Houses and Offices, and of Payment of the Salaries of the necessary Servants for taking charge of such Court Houses and Offices, and of supplying the Courts and Offices with Law and Office Books and Stationery, and of Postage Stamps, and the Disbursements of the High Bailiffs in conveying to Prison Persons committed by the County Courts, and all other Expenses incident to the holding of the said Courts, shall be paid by the Commissioners of Her Majesty's Treasury out of any Monies to be from Time to Time provided by Parliament for such Purposes.

SCHEDULES referred to in the foregoing Act.

SCHEDULE A.

(1.)—*Parts of Acts repealed.*

Reference to Act.	Title of Act.	Extent of Repeal.
9 & 10 Vict. c. 95. -	An Act for the more easy Recovery of Small Debts and Demands in England.	The whole of Sections 37., 52., 92., 107., 121, 122, 123., 126, 127., and 139. So much of Section 58. as relates to Actions for malicious Prosecution. So much of Section 102. as enacts that "no Protection Order or "Certificate granted by any "Court of Bankruptcy, or for "the Relief of Insolvent Debtors, shall be available to discharge any Defendant from "any Commitment" under the Order of a Judge. So much of Section 142. as applies to the Word "Agent."
12 & 13 Vict. c. 101.	An Act to amend the Act for the more easy Recovery of Small Debts and Demands in England, and to abolish certain Inferior Courts of Record.	The whole of Section 6.
13 & 14 Vict. c. 61. -	An Act to extend the Act for the more easy Recovery of Small Debts and Demands in England, and to amend the same.	The whole of Sections 5, 6, 7., 17., 20, 21., and 23.
15 & 16 Vict. c. 54. -	An Act further to facilitate and arrange Proceedings in the County Courts.	The whole of Section 1.
17 & 18 Vict. c. 16. -	An Act to amend the Act of the Thirteenth and Fourteenth Victoria, Chapter Sixty-one, and the Act of the Fifteenth and Sixteenth Victoria, Chapter Fifty-four.	The whole of Section 1.

SCHEDULE B.

No. 1.

Summons to obtain Judgment by Default on personal Service.

No. [*of Plaint*].

In the [*Title of Court issuing Summons*].

[*Seal.*] Between *A.B.*, Plaintiff,
and
C.D., Defendant.

[*Name, Description, and Address of Defendant.*]

TAKE NOTICE, That, unless at least Six clear Days before the [*Day of Appearance to Summons*] you return to the Registrar of this Court at [*Place of Office*] the Notice given below, dated and signed by yourself, or your Attorney or your Agent, you will not afterwards be allowed to make any Defence to the Claim which [*Name, Description, and Address of Plaintiff*] makes on you, as per Margin, the Particulars of which are hereunto annexed; but the Plaintiff may, without giving any Proof in support of such Claim, proceed to Judgment and Execution. If you return such Notice to the Registrar within the Time specified, you must appear at a County Court to be holden at on the Day of 185 , at the Hour of in the noon, to answer the above Claim, which will be heard on that Day.

	£	*s.*	*d.*
Claim -	...	...	...
Fee for Plaint -	...	...	...
Attorney's Costs -	...	...	...
Total Amount of Debts and Costs	...	...	...

Dated this Day of 185 .

__________ Registrar of the Court.

See Back.

Notice of Intention to defend.

No. [*of Plaint*]

In the [*Title of Court.*]

A.B. v. *C.D.*

I intend to define this Cause.

Dated this Day of 185 .

__________ (a) Defendant.

(a) Here must be signed the Name of Defendant, or of his Attorney or Agent, and in either of the last Two Cases the Words "Attorney for," or "Agent for," must be added.

[*To be indorsed on the Summons.*]

If you pay the Debt and Costs, as per Margin on the other Side, into the Registrar's Office, before the Day of Hearing, and without

returning the Notice of Intention to defend, you will avoid further Costs.

If you do not return the Notice of Intention to defend, but allow Judgment against you by Default, you will *save Half the Hearing Fee*, and the Order upon such Judgment will be to pay the Debt and Costs forthwith [*or* by Instalments, *to be specified, as in Plaintiff's written Consent*].

If you admit a Part only of the Claim, you must return the Notice of Intention to defend within the specified Time; and you may, by paying into the Registrar's Office the Amount so admitted, together with Costs proportionate to the Amount you pay in, Six clear Days before the Day of Hearing, avoid further Costs, unless the Plaintiff at the Hearing shall prove a Claim against you exceeding the Sum so paid.

If you intend to rely on a Set-off, Infancy, Coverture, a Statute of Limitations, or a Discharge under a Bankrupt or Insolvent Act, as a Defence, you must, in addition to the Notice of Intention to defend, give to the Registrar Notice of such special Defence Six clear Days before the Day of hearing; and such last-mentioned Notice must contain the Particulars required by the Rules of the Court; and you must deliver to the Registrar as many Copies of such Notice as there are Plaintiffs, and an additional Copy for the Use of the Court. If your Defence be a Set-off, you must, with the Notice thereof, also deliver to the Registrar a Statement of the Particulars thereof. If your Defence be a Tender, you must pay into Court, before or at the Hearing, the Amount tendered.

If you give such Notice of Intention to defend within the Time specified, you may have the Case tried by a Jury, on giving Notice in Writing at the Registrar's Office, Two clear Days before the Hearing, and on Payment of Five Shillings for the Use of such Jury.

Summonses for Witnesses and the Production of Documents may be obtained gratis at the Office of the Registrar of this Court.

Hours of Attendance at the Office of the Registrar of this Court at [*Place of Office*] from Ten till Four.

This Summons must be served *personally* on the Defendant Twelve clear Days before the Day appointed for the Hearing.

No. 2.

Summons for Commitment.

In the [*Title of Court issuing Summons*].

[*Seal.*] No. [*of Summons*].

No. [*of Judgment or Order*].

BETWEEN *A.B.*, Plaintiff,

and

C.D., Defendant.

Whereas the Plaintiff obtained a Judgment [*or if no Judgment has been obtained, or if a fresh Order has been obtained upon a Judgment,*

an Order] against you in the County Court of on the Day of 185 , for the Payment of £ for Debt [*or* Damages], and £ for Costs, upon which Judgment [*or* Order], and the subsequent Process issued thereon, the Sum of £ is now due: You are therefore hereby summoned to appear personally in this Court at [*Place where Court holden*] on the Day of 185 , at the Hour of o'Clock in the noon, to be examined by the Court touching your Estate and Effects, and the Circumstances under which you contracted the said Debt [*or* incurred the said Damages], and as to the Means and Expectation you then had, and as to the Means you still have, of discharging the said Debt [*or* Damages], and as to the Disposal you may have made of any Property. And take notice, that if you disobey this Summons the Court may commit you to Prison.

Dated this Day of , 185 .

______________ Registrar of the Court.

Hours of Attendance at the Office of the Registrar of this Court [*Place of Office*] from Ten till Four.

When issued under this Act, insert

"Issued by Leave of the Judge."

No. 3.

Warrant of Commitment.

In the [*Title of Court ordering Committal*].

[*Seal.*] No. [*of Commitment*].

No. [*of Judgment Summons*].

Between *A.B.*, Plaintiff,
and
C.D., Defendant.

To the High Bailiff and others the Bailiffs of the said Court, and all Peace Officers within the Jurisdiction of the said Court, and to the Governor or Keeper of the [*Prison used by the Court*].

Whereas the Plaintiff obtained a Judgment [*or* Order] against the Defendant in the County Court of on the Day of 185 , for the Payment of £ for Debt [*or* Damages] and Costs, upon which Judgment [*or* Order], and the subsequent Process issued thereon, the Sum of £ was at the Date of the issuing of the Summons herein-after mentioned and still is due:

And whereas a Summons was, at the Instance of the Plaintiff, duly issued out of this Court, by which the Defendant was required to

appear at this Court on the Day of 185 to answer such Questions as might be put to him pursuant to Section Ninety-eight of the Statute 9th and 10th Victoria, Chapter 95., in relation to such Debt [*or* Damages], which Summons was proved to this Court to have been personally and duly served on the Defendant:

And whereas this Court, at the Hearing of the said Summons, ordered that the Defendant should be committed to Prison for Days, for [*as the Case may be*] not appearing pursuant to such Summons, or alleging a sufficient Excuse for not so appearing;

[*or* for refusing to be sworn];

[*or* for refusing to answer such Questions as aforesaid to the Satisfaction of the Judge];

[*or* for contracting the said Debt under false Pretences, *or* by means of Fraud *or* Breach of Trust, *or* without reasonable Expectation of being able to pay the same];

[*or* for making a Gift or Transfer of Part of his Property, with Intent to defraud his Creditors];

[*or* for having charged, *or* removed, *or* concealed Part of his Property with Intent to defraud his Creditors];

[*or* for not having satisfied the said Judgment and Costs, having had sufficient Means and Ability so to do]:

These are therefore to require you the said High Bailiff, Bailiffs and others, to take the Defendant, and to deliver him to the Governor or Keeper of the [*Prison used by the Court*], and you the said Governor or Keeper to receive the Defendant, and him safely keep in the said Prison for Days from the Arrest under this Warrant, or until he shall be sooner discharged by due Course of Law.

Dated this [*insert Date of Order*] Day of 185 .

E.F.
Registrar of the Court.

	£.	*s.*	*d.*
Amount remaining due - - - -	...	...	...
Poundage for issuing this Warrant - -	...	...	...
Total -	...	...	...

This Warrant *remains in force One Year* from the Date thereof.

This Form to be applicable to all Judgments recovered at the Hearing, or by Default, or by Consent, and to all Orders within the Jurisdiction of the Court.

SCHEDULE C.

Table of Fees to be taken in the County Courts in Proceedings other than in Protection and Insolvency Cases.

For every Plaint,—Tenpence in the Pound.

No Fee shall be payable on any Application for a new Trial, or to set aside Proceedings, or in the Nature of a Scire facias, or for a Summons in an Interpleader, or for a Summons in respect of an unsatisfied Judgment.

For every Judgment by Consent under the 13 & 14 Vict. c. 61. ss. 8. or 9., and for every Judgment by Default,—One Shilling in the Pound.

For every Hearing,—Two Shillings in the Pound.

An additional Hearing Fee shall be taken for every new Trial.

The Hearing on Interpleader shall not be prepaid, but shall be estimated on the Amount of the Money or the Value of the Goods claimed, which Value, in case of Dispute, shall be assessed by the Judge, who at the Hearing shall direct by whom and when and how such Fee shall be paid.

No Fee shall be payable for hearing any Application for a New Trial, or to set aside Proceedings, or in the Nature of a Scire Facias, or for hearing a Summons in respect of an unsatisfied Judgment.

For every Jury,—Five Shillings shall be paid to the Registrar by the Party demanding the Jury, on such Demand, for the Use of the Jurors.

For issuing every Warrant against the Body or Goods,—Eighteenpence in the Pound on the Amount for which such Warrant shall issue.

For issuing every Warrant to deliver Possession of Tenements,—Eighteenpence in the Pound.

For taking the Acknowledgment of a married Woman,—One Pound.

High Bailiff's Fees.

For keeping Possession of Goods till Sale, per Day, (including Expenses of Removal, Storeage of Goods, and all other Expenses,) not exceeding Five Days, except in Cases of Interpleader,—Sixpence in the Pound on the Value of the Goods seized, to be fixed by Appraisement in case of Dispute.

Brokers and Appraisers Fees.

For the Appraisement of Goods, whether by One Broker or more,—Sixpence in the Pound on the Value of the Goods appraised, over and above the Stamp Duty.

For the Sale of Goods, including Advertisements, Catalogues, Sale and Commission, and Delivery of Goods,—One Shilling in the Pound on the net Produce of Sale.

In all Plaints for the Recovery of Debt or Damages, all Poundage, except where otherwise specified in this Schedule, shall be estimated on the Amount of the Claim.

In Replevins all Poundage, except as aforesaid, shall be estimated on the Amount of the alleged Rent or Damage, to be fixed by the Registrar.

In Plaints for the Recovery of Tenements when the Term has expired or been determined by Notice, all Poundage, except as aforesaid, shall be estimated on the Amount of the weekly, monthly, or yearly Rent of the Tenement, as such Tenement shall have been let by the Week, or by the Month, or for any longer Period; and if no Rent shall have been reserved, then on the Amount of the Half-yearly Value of the Tenement, to be fixed by the Registrar.

If in any Plaint for the Recovery of Tenements a Claim be made for Rent or Mesne Profits, an additional Poundage shall be paid on the Amount of such Claim.

In Plaints for the Recovery of Tenements for Nonpayment of Rent, all Poundage, except as aforesaid, shall be estimated on the Amount of the Half-yearly Rent of the Tenement.

In every Case where the Poundage would but for this Rule be estimated on an Amount exceeding Twenty Pounds, it shall be estimated at Twenty Pounds only.

In every Case where the Poundage cannot be estimated by any Rule in this Schedule, it shall be estimated on Twenty Pounds.

All Fractions of a Pound, for the Purpose of calculating Poundage, shall be treated as an entire Pound.

Where the Plaintiff recovers less than the Amount of his Claim, so as to reduce the Scale of Costs, he shall pay the Difference, unless the Reduction shall be caused by a Set-off.

No Increase of Fees shall be made by reason of there being more than One Plaintiff or Defendant.

No other Fees shall be taken on any account.

SCHEDULE D.

	£
R. Brandt, Esquire, Judge of the County Court of Lancashire, holden at Manchester - - - -	1,500
F. Bayley, Esquire, Judge of the Westminster County Court of Middlesex - - - - -	1,500
J. Pollock, Esquire, Judge of the County Court of Lancashire, holden at Liverpool - - - -	1,500

	£
J. L. Adolphus, Esquire, Judge of the Marylebone County Court of Middlesex; the Brompton County Court of Middlesex; and the County Court of Middlesex holden at Brentford - - - - - -	1,500
Mr. Serjeant Storks, Judge of the Shoreditch and Bow County Courts of Middlesex - - - -	1,500
J. Pitt Taylor, Esquire, Judge of the Lambeth County Court of Surrey, and the County Court of Kent holden at Greenwich and Woolwich - - -	1,500
W. Walker, Esquire, Judge of the County Courts of Yorkshire, holden at Barnsley, Doncaster, Goole, Rotherham, Sheffield, and Thorne - - - -	1,500
T. H. Marshall, Esquire, Judge of the County Courts of Yorkshire, holden at Leeds, Dewsbury, Pontefract, and Wakefield - - - - - -	1,500
J. W. Harden, Esquire, Judge of the County Courts of Cheshire, holden at Altrincham, Birkenhead, Chester, Knutsford, Nantwich, Northwich, and Runcorn; and of the County Courts of Lancashire, holden at Salford and Warrington - - - - -	1,500
Mr. Serjeant Clarke, Judge of the County Courts of Staffordshire, holden at Oldbury, Wallsall, and Wolverhampton; and of the County Court of Worcestershire, holden at Dudley - - - -	1,500
George Clive, Esquire, Judge of the Southwark County Court of Surrey - - - - -	1,500
D. D. Heath, Esquire, Judge of the Bloomsbury County Court of Middlesex - - - - -	1,500
Mr. Serjeant Jones, Judge of the Clerkenwell County Court of Middlesex - - - - - -	1,500
J. Stansfeld, Equire, Judge of the County Courts of Yorkshire, holden at Halifax, Holmfirth, Huddersfield, and Todmorden - - - - - -	1,500
Mr. Serjeant Manning, Judge of the Whitechapel County Court of Middlesex - - - - -	1,500
Leigh Trafford, Esquire, Judge of the County Courts of Warwickshire, holden at Atherstone, Birmingham, and Tamworth - - - - - -	1,500
J. Addison, Esquire, Judge of the County Courts of Lancashire, holden at Blackburn, Burnley, Clitheroe, Colne, Garstang, Kirkham, Lancaster, Poulton, and Preston -	1,500
Mr. Serjeant Dowling, Judge of the County Courts of Yorkshire, holden at Easingwold, Knaresborough, Leyburn, Northallerton, Richmond, Ripon, Selby, Stokesley, Thirsk, Wetherby, Whitby, and York - -	1,500

	£
F. Dinsdale, Esquire Judge of the County Court of Leicestershire, holden at Lutterworth; of the County Court of Northamptonshire, holden at Daventry; of the County Court of Oxfordshire, holden at Banbury; of the County Courts of Warwickshire, holden at Alcester, Coventry, Nuneaton, Rugby, Solihull, Southam, Stratford-on-Avon, and Warwick; and of the County Court of Worcestershire, holden at Shipston - - -	1,350
W. Furner, Esquire, Judge of the County Courts of Sussex, holden at Arundel, Brighton, Chichester, Cuckfield, East Grinstead, Hastings, Horsham, Lewes, Midhurst, Petworth, Rye, and Worthing - - - -	1,350

County Courts Acts Amendment.

A

BILL

[AS AMENDED IN COMMITTEE]

INTITULED

An Act to amend the Acts relating to the County Courts.

(*Brought from the Lords* 16 *June* 1856.)

Ordered, by The House of Commons, *to be Printed,*
15 *July* 1856.

[Bill 252.]

Under 5 oz.

County Courts Acts Amendment Bill.

[AS AMENDED IN COMMITTEE AND ON CONSIDERATION OF BILL AS AMENDED.]

ARRANGEMENT OF CLAUSES.

Commencement of Act; Sect. 1.

Enactments in Schedule A. repealed; 2.

Act to be construed with former Acts relating to County Courts; 3.

Acts to apply to Debts sued for under 18 & 19 Vict. c. 67.; 4.

Time and Mode of doing certain Things to be regulated by Rules of Practice; 5.

Qualification of Deputy Judge; 6.

Where a Court cannot be held on account of Death, Illness, &c. Proceedings to stand adjourned; 7.

Clerk to be called Registrar; 8.

Registrar of more than One Court to cease to be the Registrar of all but One of such Courts; 9.

Compensations to Registrars; 10.

Deputy Judge to continue to act after Death of Judge; 11.

Deputy Registrar to continue to act after Death or Removal of Registrar; 12.

Who to act as Registrar on his Death or Removal without having appointed a Deputy; 13.

Bailiffs shall continue to act after Death of High Bailiff; 14.

Who may discharge Duties of High Bailiff on his Death or Removal; 15.

Bailiff may serve Summons or execute Process within Five hundred Yards of Boundary of District; 16.

Districts of the Courts in the Metropolis to be treated as One District for certain Purposes; 17.

Where Judge of County Court can sue and be sued; 18.

If Officer of Court be Plaintiff in his Court, Defendant may remove the Cause to an adjoining District; 19.

Where Officer of County Court may be sued; 20.

Power to change Venue; 21.

In certain Cases, on Agreement of the Parties, County Court shall have Power to try Causes, although the Matters be beyond its Jurisdiction; 22.

Where Claim reduced by Set-off to 50*l*., Court to have Jurisdiction; 23.

Where Title to any corporeal Hereditament shall come in question, Court, with Consent of Parties at Trial, may decide the Claim; 24.

In certain Cases a Judge of a Superior Court may direct a Cause brought in such Court to be tried in a County Court; 25.

No Action to be brought in County Court on Judgment of Superior Court; 26.

If liquidated Demand exceed 20*l.*, Plaintiff may require Defendant to give Notice of Intention to defend, or suffer Judgment by Default; 27.

If Notice to defend given, Action shall be tried; 28.

In certain Cases of Judgment by Default, Costs may be recovered; 29.

Judge may issue Warrant for bringing up a Prisoner to give Evidence; 30.

Judges to make Rules and Orders for regulating Practice of Courts; to be certified to Lord Chancellor and submitted to Three or more Judges of Superior Courts; 31.

Scale of Costs in certain Proceedings to be framed by the Judges; 32.

Taxation of Costs; 33, 34.

Costs between Attorney and Client; 35.

Till new Scale of Costs and Rules, &c. made, former Practice to continue; 36.

Certiorari may be granted in certain Cases; 37.

Rule or Summons to show Cause why a Writ of Certiorari or Prohibition should not issue to be Stay of Proceedings; 38.

In certain Cases Defendant may object to Cause being tried in the County Court; 39.

Notice of Writ of Certiorari or Prohibition having been obtained to be sent to Registrar; 40.

Application for Writ of Prohibition to a Judge shall be finally disposed of by Rule or Order; 41.

Rule or Order substituted for Writ of Mandamus to a Judge or Officer of a County Court; 42.

Refusal of Writ of Certiorari or Prohibition or of Rule or Order in the Nature of a Mandamus by One Court or Judge to be final; 43.

Where Judgment does not exceed 20*l.*, the Judge may order Payment by Instalments; 44.

Priority of Warrants of Execution issuing out of County Court; 45.

Priority of Executions where issued out of Superior Court and County Court; 46.

Summons for Commitment may, by Leave of Court, issue in Court in which Judgment was obtained; 47.

Judgment may be removed if there are no Goods to be taken under it; 48.

Possession of small Tenements may be recovered in County Courts by Landlords where Term has expired or been determined by Notice; 49.

In Plaint for Recovery of Possession Plaintiff may claim for Rent and mesne Profits; 50.

Possession of small Tenements may be recovered in County Court by Landlords for Nonpayment of Rent; 51.

Sub-Tenant served with Summons to recover Possession must give Notice to his immediate Landlord, who may come in and defend; 52.

In Plaints to recover Possession of Premises how Summonses may be served; 53.

Warrants to deliver Possession sufficient Justification to Bailiffs for Entry on Premises. When such Warrants are to be served; 54.

Such Warrants to be in force for Three Months from the Day named for delivering Possession; 55.

Amendment; 56.

Before whom Affidavit may be sworn; 57.

Warrants of Commitment, how long to be in force; 58.

No Officer or Party shall be deemed a Trespasser by reason of Irregularity; 59.

Commitment Summonses and Warrants of Commitment sufficient if in Form given in Schedule; 60.

Bankruptcy and Insolvency of Plaintiff, when not to abate Action; 61.

Registrar to grant Replevins; 62.

Replevins to be granted on Securities given; 63.

Replevins may be commenced in Superior Courts. Conditions of Security to be given in such Cases; 64.

Conditions of Security to be given when Replevin brought in County Court; 65.

Replevins shall, at Instance of Defendant, be removed into Superior Court in certain Cases; 66.

Appeal in Actions of Replevin, and Proceedings in Interpleader, and for Recovery of Tenements; 67.

Parties may agree not to appeal; 68.

How Securities under County Court Acts to be given and enforced; 69.

Where Security is required to be given a Deposit of Money may be made in lieu thereof; 70.

Claimant of Goods taken in Execution to deposit Value or pay Costs of keeping, otherwise Goods to be sold; 71.

Acknowledgments by married Women under 3 & 4 W. 4. c. 74. to be received by a Judge of a County Court; 72.

When Debtors Prison of County is distant from a Court, the nearest Debtors Prison of adjoining Court may by Order of a Secretary of State be used; 73.

When Goods seized under Process of County Court Landlord may claim certain Rent in arrear; 74.

Removal of Bonds from Registry of Common Pleas; 75.

Compensations to Officers of Hundred Court of Wirral in the County of Chester; 76.

Fees to be taken according to Schedule, and Table of Fees to be exhibited in Court and Registrar's Office; 77.

Treasury to regulate Fees to be taken in County Courts; 78.

Salaries of Judges to be paid out of Consolidated Fund; their Travelling Expenses to be voted; 79.

Salaries of the Judges; 80.

Registrars to be paid by Salaries; 81.

High Bailiffs to be paid partly by Salaries and partly by Fees; 82.

Salaries of Registrars and High Bailiffs to be paid out of Fees; 83.

Expense of building, &c. to be paid out of Monies to be provided by Parliament; 84.

SCHEDULES.

17 *July* 1856. 19 & 20 Vict.

A

BILL

[AS AMENDED IN COMMITEE AND ON CONSIDERATION OF
BILL AS AMENDED]

INTITULED

An Act to amend the Acts relating to the County Courts.

[Note.—*The Clauses* A. *to* N. *and Schedules* C. *and* D. *were added in Committee.*]

Preamble.

WHEREAS it is expedient to amend and extend the Provisions of the Acts relating to the County Courts established by the Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Commencement of Act.

I. The Provisions of this Act shall come into operation on the First Day of October in the Year of our Lord One thousand eight hundred and fifty-six, except the Provisions relating to framing a Scale of Costs and making Rules and Orders of Practice and Forms of Proceeding which shall come into operation on the passing of this Act.

Enactments in Schedule A. repealed.

II. The several Enactments specified in Schedule (A.) to this Act are hereby repealed, except as to Acts done under them.

This Act to be construed with former

III. This Act and the Acts passed in the Sessions of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty,

Acts relating to County Courts.

Majesty, Chapter Ninety-five, in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, Chapter One hundred and one, in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-one, and in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-four, shall be read and construed as One Act, as if the several Provisions in the said recited Acts contained, not inconsistent with the Provisions of this Act, were repeated and re-enacted in this Act.

CLAUSE A. Acts to apply to Debts sued for under 18 & 19 Vict. c. 67.

IV. The Provisions of this Act and of the recited Acts which apply to any Debt not exceeding Twenty Pounds shall apply to such Debt or any Part thereof, although the same shall be secured by or claimed upon Bill of Exchange or Promissory Note, and notwithstanding the Statute of the Eighteenth and Nineteenth of Victoria, Chapter Sixty-seven.

Time and Mode of doing certain Things to be regulated by Rules of Practice.

V. Where the Time within which, or where the Mode in which, any Proceeding should be taken in the County Court is not prescribed, either in this Act or in any Act relating to the County Courts, such Time and Mode shall be appointed by the Rules of Practice, Orders, and Forms, to be made as herein-after provided.

Qualification of Deputy Judge.

VI. Any Person hereafter to be appointed a Deputy to the Judge of a County Court shall be a Barrister-at-Law of Seven Years Standing, or shall have practised as a Barrister and Special Pleader for at least Seven Years, or shall be a Judge of a County Court.

Where a Court cannot be held Proceedings to stand adjourned.

VII. Where by reason of the Death or unavoidable Absence of the Judge a County Court cannot be held, the Registrar, or in the event of his unavoidable Absence, the High Bailiff, shall adjourn the Court to such Day as he may deem convenient, and enter in the Minute Book the Cause of such Adjournment.

Clerk to be called Registrar.

VIII. The Clerk of a County Court shall hereafter be called the Registrar of the Court.

CLAUSE B. Registrar of more than One Court to cease to be the Registrar of all but One of such Courts.

IX. From and after the First Day of October One thousand eight hundred and fifty-six, a Registrar of more than One County Court shall cease to be the Registrar of all of the Courts of which he is the Registrar, except of that Court of which he may by Writing addressed to the Judge of such Court have elected to remain the Registrar: Provided always, that this Provision shall not apply to any Registrar who was Clerk to any Court mentioned in Schedule (A.) to the Act passed in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, unless such Registrar shall, by

Writing addressed to the Judge of such Courts, have signified his Desire that it should apply to him.

Clause C.
Compensation to Registrars.

X. Every Person who shall, under the Provisions of the last Section, cease to be the Registrar of One or more County Courts, shall be entitled to receive, as Compensation for the Loss sustained by him thereby, an Annuity equal to One Fourth of the yearly Amount of the Fees received in such Court or Courts for the Use of the Registrar, calculated on an Average of the Five Years ended the Thirty-first Day of December One thousand eight hundred and fifty-five, and the Commissioners of Her Majesty Treasury are hereby empowered to award in each Case such Annuity, and to direct Payment of the same to be made out of any Monies to be provided by Parliament for that Purpose: Provided always, that where any such Registrar shall have been the Clerk of any Court mentioned in the Schedule (A.) or (B.) to the Act passed in the Ninth and Tenth Years of the Reign of Her Majesty, Chapter Ninety-five, Compensation may be awarded to him according to the Provisions of Section Thirty-eight of the said Act.

Deputy of Judge to continue to act after Death of Judge.

XI. The Appointment of a Deputy of a Judge of a County Court, whether such Deputy shall have been appointed by the Judge, or by the Lord Chancellor, or by the Chancellor of the Duchy of Lancaster, shall not be vacated by the Death of the Judge, but his Acts done after such Death shall be as valid as if the Judge had not died, and he shall continue to act in all the Courts of the District of which the Deceased was Judge until the Lord Chancellor, or, where the whole of such District is within the Duchy of Lancaster, until the Chancellor of that Duchy, shall otherwise order, or a Successor to such Judge shall be appointed; and such Deputy shall receive as Remuneration for the Period that he may act as Deputy, after the Death of the Judge, such Sum as the Lord Chancellor shall direct, or if the Successor of the deceased Judge be appointed by the Chancellor of the Duchy of Lancaster, then as the said Chancellor of the Duchy shall direct, and such Sum shall be deducted from the Salary and Travelling Allowance of the Judge appointed to succeed the deceased Judge; and the Provisions of this Section shall apply to all Acts done by any Deputy prior to the Commencement of this Act.

Deputy of Registrar to continue to act after Death or Removal of Registrar.

XII. The Appointment of a Deputy of a Registrar shall not be vacated by the Death or Removal of the Registrar, but his Acts done after such Death or Removal shall be as valid as if the Registrar had not died or been removed, and he shall continue to act until a Successor to such Registrar shall be appointed; and he shall receive as Remuneration for his Services during the Period he may so act after the Death or Removal of the Registrar a rateable Proportion of the Salary attached to the Office of Registrar.

Who may discharge Duties of Registrar on his Death or Removal, without having appointed a Deputy.

XIII. On the Death or Removal of a Registrar who shall not have appointed a Deputy, the Judge may, for a Period not exceeding Three Months, provisionally appoint a Person to discharge the Duties of Registrar, and such Person shall act as and have all the Rights and Liabilities of a Registrar until a permanent Successor shall be appointed, and shall receive as Remuneration for his Services during the Period he may so act a rateable Proportion of the Salary attached to the Office of Registrar.

Assistant Bailiffs to continue to act after Removal of High Bailiff.

XIV. The Appointment of the Bailiffs who are appointed to assist the High Bailiff shall not be vacated by the Death or Removal of the High Bailiff, but their Acts done after such Death or Removal shall be as valid as if the High Bailiff had not died or been removed, and had authorized such Acts, and they shall continue to act until they shall be dismissed by the Successor of the High Bailiff or by the Judge; and they shall be paid for their Services during the Period they shall so act after the Death or Removal of the High Bailiff the same Wages as they were receiving at the Date of such Death or Removal, and such Wages shall be paid out of the Salary and Allowances attached to the Office of High Bailiff.

Who may discharge Duties of High Bailiff on his Death or Removal.

XV. On the Death or Removal of a High Bailiff, the Judge may, for a Period not exceeding Three Months, provisionally appoint a Person to discharge the Duties of High Bailiff, and such Person shall act as and have all the Rights and Liabilities of a High Bailiff until a permanent Successor shall be appointed, and shall receive as Remuneration for his Services during the Period he shall so act a rateable Proportion of the Salary and Allowances attached to the Office of High Bailiff.

Bailiff may serve Summons or execute Process within 500 Yards of District.

XVI. A Summons may be served, or a Warrant executed, within Five hundred Yards of the Boundary of the District of the County Court from which the same issued by the Bailiff of such Court, or by Order of the Judge of such Court, by such Bailiff within the District of any other Court.

Districts of the Courts in the Metropolis to be treated as One District for certain Purposes.

XVII. Where a Plaintiff shall dwell or carry on Business in the District of the Bloomsbury County Court of Middlesex, or in the District of the Brompton County Court of Middlesex, or in the District of the Clerkenwell County Court of Middlesex, or in the District of the Lambeth County Court of Surrey, or in the District of the Marylebone County Court of Middlesex, or in the District of the Shoreditch County Court of Middlesex, or in the District of the Southwark County Court of Surrey, or in the District of the Westminster County Court of Middlesex, or in the District of the Whitechapel County Court of Middlesex, and the Defendant shall dwell or carry on Business in the District of any of the said Courts, the Summons may issue and be served either in the District in which the Plaintiff shall dwell or carry on Business, or in the District in which the Defendant shall dwell or carry on Business.

Where Judge of County Court can sue and be sued.

XVIII. A Judge proposing to sue any Person dwelling or carrying on Business in any District of which he is the Judge may bring his Action in the County Court of any adjoining District of which he is not the Judge; and any Person proposing to sue a Judge may bring his Action in any County Court of a District adjoining the District of which the Defendant is Judge.

If Officer of Court be Plaintiff in his own Court, Defendant may remove the Cause to an adjoining District.

XIX. If an Action be brought by an Officer of a County Court in the Court of which he is an Officer, except in case of the Registrar suing as Official Assignee, the Judge shall, at the Request of the Defendant, order that the Venue be changed, and that the Cause be sent for Hearing to the Court of some convenient District of which he is not the Judge; and the Registrar of the first-mentioned Court shall forthwith transmit by Post to the Registrar of such last-mentioned Court a certified Copy of the Plaint as entered in the Plaint Book, the duplicate Copy of the Summons and Particulars served on the Defendant, and a certified Copy of the Order for changing the Venue as entered in the Minute Book; and the Judge of such last-mentioned Court shall appoint a Day for the Hearing, Notice whereof shall be sent by Post or otherwise by the Registrar of such last-mentioned Court to both Parties.

Where Officer of County Court may be sued.

XX. If an Action be brought against an Officer of a County Court, the Summons may issue in the District of which he is an Officer, or in any adjoining District the Judge of which is not the Judge of a Court of which the Defendant is an Officer.

Power to change Venue.

XXI. If a Judge of a County Court shall be satisfied by either Party to a Cause pending in his Court that such Cause can be more conveniently or fairly tried in some other County Court, he shall order that the Venue be changed, and that the Cause be sent for Hearing to such other County Court, or, if the Judge shall be interested in the Matter of any Cause pending in his Court, he shall order that the Venue be changed, and that the Cause be sent for

Hearing to some convenient County Court of which he is not the Judge, at his Discretion; and in either Case the Registrar of the Court in which the Plaint was entered shall forthwith transmit by Post to the Registrar of the Court to which the Cause is to be sent a certified Copy of the Plaint, as entered in the Plaint Book, the duplicate Copy of the Summons and Particulars served on the Defendant, and a certified Copy of the Order for changing the Venue, and the Judge of such last-mentioned Court shall appoint a Day for the Hearing, Notice whereof shall be sent by Post or otherwise by the Registrar to both Parties.

In certain Cases, on Agreement of the Parties, County Court shall have Power to try Causes, although the Matters be beyond its Jurisdiction.

XXII. The County Courts shall not have Jurisdiction to try any Action for Criminal Conversation; but with respect to all other Actions, which may be brought in any Superior Court of Common Law, if both Parties shall agree by a Memorandum signed by them or their respective Attorneys that any County Court named in such Memorandum shall have Power to try such Action, such County Court shall have Jurisdiction to try the same.

Where Claim reduced by Set-off to 50*l.* Court to have Jurisdiction.

XXIII. Where in any Action the Debt or Demand claimed consists of a Balance not exceeding Fifty Pounds, after an admitted Set-off of any Debt or Demand claimed or recoverable by the Defendant from the Plaintiff, the Court shall have Jurisdiction to try such Action.

Where Title shall come in question, Court, with Consent of Parties at Trial, may decide the Claim.

XXIV. In any Action in the County Court in which the Title to any corporeal or incorporeal Hereditament, or to any Toll, Fair, Market, or Franchise, shall incidentally come in question, the Judge shall have Power to decide the Claim which it is the immediate Object of the Action to enforce, if both Parties at the Hearing shall consent in any Writing signed by them or their Attorneys to the Judge having such Power; but the Judgment of the Court shall not be Evidence of Title between the Parties or their Privies in any other Action in that Court or in any Proceeding in any other Court; and such Consent shall not prejudice or affect any Right of Appeal of either of the Parties to such first-mentioned Action.

In certain Cases Superior Judge may order Cause to be tried in County Court.

XXV. Where in any Action of Contract brought in a Superior Court the Claim indorsed on the Writ does not exceed Fifty Pounds, or where such Claim, though it originally exceeded Fifty Pounds, is reduced by Payment into Court, Payment, an admitted Set-off, or otherwise, to a Sum not exceeding Fifty Pounds, a Judge of a Superior Court, on the Application of either Party, after Issue joined, may, in his Discretion, and on such Terms as he shall think fit, order that the Cause be tried in any County Court which he shall name; and thereupon the Plaintiff shall lodge with the Registrar of such Court such Order and the

Issue; and the Judge of such Court shall appoint a Day for the Hearing of the Cause, Notice whereof shall be sent by Post or otherwise by the Registrar to both Parties or their Attorneys; and after such Hearing the Registrar shall certify the Result to the Master's Office of such Superior Court, and Judgment in accordance with such Certificate may be signed in such Superior Court.

No Action to be brought in County Court on Judgment of Superior Court.

XXVI. No Action shall be brought in a County Court on any Judgment of a Superior Court.

If liquidated Demand exceed 20*l.*, Plaintiff may require Defendant to give Notice of Intention to defend, on pain of Judgment by Default.

XXVII. In any Action in a County Court for a Debt or liquidated Money Demand exceeding Twenty Pounds, the Plaintiff may, at his Option, cause to be issued either a Summons in the ordinary Form, or a Summons in the Form or to the Effect given in Schedule (B.) to this Act numbered (1); provided that if such last-mentioned Summons be issued it shall be personally served on the Defendant Twelve clear Days before the Return Day thereof, and then if the Defendant shall not at least Six clear Days before such Return Day give Notice in Writing, signed by himself, his Attorney or Agent, to the Registrar, of his Intention to defend, the Plaintiff may, on or within One Month after such Return Day, without giving any Proof of his Claim, have Judgment entered up against the Defendant for the Amount of his Claim and Costs, such Costs to be taxed by the Registrar; and the Order upon such Judgment shall be for Payment forthwith, or at such Time or Times, and by such Instalments, if any, as the Plaintiff or his Attorney or Agent shall in Writing have consented to take at the Time of the Entry of the Plaint.

If Notice to defend given, Action shall be tried.

Registrar to tell Plaintiff whether Notice has or has not been given.

XXVIII. If the Defendant shall give such Notice as in the last preceding Section is specified, the Action shall be heard in the ordinary Course; but in any event the Registrar shall, immediately after the last Day for giving such Notice, send a Letter to the Plaintiff by Post, stating therein whether the Defendant has or has not been served with such Summons, and whether he has or has not given Notice of his Intention to defend.

In certain Cases of Judgment by Default, Costs may be recovered.

XXIX. Where an Action of Contract is brought in One of Her Majesty's Superior Courts of Record to recover a Sum not exceeding Twenty Pounds, and the Defendant in the Action suffers Judgment by Default, the Plaintiff shall recover no Costs, unless upon an Application to a Judge of such Court he shall otherwise direct.

Judge may issue Warrant for bringing up

XXX. A Judge of a County Court, in any Case where he shall see fit, upon Application on Affidavit by either Party, may issue an a Prisoner to give Evidence.

Order under his Hand and the Seal of the Court for bringing up before such Court any Prisoner or Person confined in any Gaol, Prison, or Place, under any Sentence or under Commitment for Trial or otherwise, except under Process in any Civil Action, Suit, or Proceeding, to be examined as a Witness in any Cause or Matter depending, or to be inquired of or determined in or before such Court; and the Person required by any such Warrant or Order to be brought before such Court shall be so brought under the same Care and Custody, and be dealt with in like Manner in all respects, as a Prisoner required by any Writ of Habeas corpus awarded by any of Her Majesty's Superior Courts of Law at Westminster to be brought before such Court to be examined as a Witness in any Cause or Matter depending before such Court, is now by Law required to be dealt with: Provided always, that the Person having the Custody of such Prisoner or Person shall not be bound to obey such Order, unless a Tender be made to him of a reasonable Sum for the Conveyance and Maintenance of a proper Officer or Officers, and of the Prisoner or Person in going to, remaining at, and returning from such County Court.

Rules and Orders for County Court regulating Practice of County Courts, and Forms of Proceedings, to be framed by the Judges.

XXXI. The Lord Chancellor may appoint Five County Court Judges, and from Time to Time fill up any Vacancies in their Number, to frame Rules and Orders for regulating the Practice of the Courts, and Forms of Proceedings therein, and from Time to Time to amend such Rules, Orders, and Forms; and such Rules, Orders, and Forms, or amended Rules, Orders, and Forms, certified under the Hands of such Judges or any Three or more of them, shall be submitted to the Lord Chancellor, who may allow or disallow or alter the same; and the Rules, Orders, and Forms, or amended Rules, Orders, and Forms, so allowed or altered, shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

Scale of Costs to be allowed to Attorneys in certain Proceedings in County Courts to be framed by the Judges.

XXXII. With respect to Proceedings in the County Courts, in Actions where the Debt or Damage claimed exceeds Twenty Pounds, the Five County Court Judges mentioned in the last Section shall be empowered to frame a Scale of Costs and Charges to be paid to Counsel and Attorneys, and from Time to Time to amend such Scale; and such Scale or amended Scale, certified under the Hands of such Judges or any Three or more of them, shall be submitted to the Lord Chancellor, who may allow or disallow or alter the same; and the Scale or amended Scale so allowed or altered shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

XXXIII. With respect to such Proceedings as are specified in the last preceding Section, all Costs and Charges between Party and Party shall be taxed by the Registrar of the Court in which such Costs and Charges were incurred, but his Taxation may be reviewed by the Judge of the Court, on the Application of either Party; and no Costs or Charges shall be allowed on such Taxation which are not sanctioned by the Scale then in force.

Costs of Attorney in certain Proceedings in County Courts shall be taxed by Registrar as between Party and Party.

XXXIV. With respect to such Proceedings as are last hereinbefore specified, all Costs and Charges between Attorney and Client shall, on the Application either of the Attorney or Client, but not otherwise, be taxed by the Registrar of the Court in which such Costs and Charges were incurred, but his Taxation may be reviewed by the Judge of the Court, on the Application of either Party; and no Costs or Charges shall be allowed on such Taxation which are not sanctioned by the Scale then in force, unless the Registrar shall be satisfied that the Client has agreed in Writing to pay them, in which Case they may be allowed; and no Attorney shall have a Right to recover from his Client any Costs or Charges in respect of such Proceedings, unless they shall have been allowed, either on such Taxation, or on the Taxation of a Master of a Superior Court of Common Law or of the Court of Chancery.

Costs of Attorney in certain Proceedings in County Courts may be taxed by Registrar as between Attorney and Client.

XXXV. Where in any Action the Debt or Damage claimed shall not exceed Twenty Pounds, an Attorney shall not be entitled to recover from his Client any further Costs or Charges in the Conduct of such Suit than those mentioned in the Ninety-first Section of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, unless upon Taxation of Costs the Registrar be satisfied, by Writing under the Hand of the Client, that he has agreed to pay further Costs or Charges; and in such Case the Registrar may allow any Costs or Charges not exceeding the Amount which may have been so agreed to be paid.

Costs between Attorney and Client.

XXXVI. Until the Scale of Costs and Charges, and the Rules, Orders, and Forms mentioned herein, shall respectively be in force, the Scale of Costs and Charges, and the Rules, Orders, and Forms, respectively in operation in the County Courts at the Time of passing this Act, so far as the same are not inconsistent with this Act, shall continue in force.

Till new Scale of Costs, and Rules and Orders, and Forms, made, former Practice to continue.

XXXVII. Any Action commenced in a County Court for a Claim not exceeding Five Pounds may be removed by Writ of Certiorari into a Superior Court, if such Superior Court or a Judge of a Superior Court shall deem it desirable that the Cause shall be tried

Certiorari may be granted in certain Cases, at Discretion of Superior

Judge, on Security given.

tried in such Superior Court; and if the Party applying for such Writ shall give Security, to be approved of by One of the Masters of such Superior Court, for the Amount of the Claim, and the Costs of the Trial, not exceeding in all One hundred Pounds, and shall further assent to such Terms, if any, as the Superior Court or Judge shall think fit to impose.

Rule or Summons to show Cause why a Writ of Certiorari or Prohibition should not issue to be a Stay of Proceedings.

XXXVIII. The granting by any of the Superior Courts or by any Judge thereof of a Rule or Summons to show Cause why a Writ of Certiorari or Prohibition should not issue to a County Court, shall, if the Superior Court or a Judge thereof so direct, operate as a Stay of Proceedings in the Cause to which the same shall relate until the Determination of such Rule or Summons, or until such Superior Court or Judge shall otherwise order; and the Judge of the County Court shall from Time to Time adjourn the Hearing of such Cause to such Day as he shall think fit until such Determination or until such Order be made; but if a Copy of such Rule or Summons shall not be served by the Party who obtained it on the opposite Party and on the Registrar of the County Court Two clear Days before the Day fixed for the Hearing of the Cause, the Judge of the County Court may in his Discretion order the Party who obtained the Rule or Summons to pay all the Costs of the Day, or so much thereof as he shall think fit, unless the Superior Court or a Judge thereof shall have made some Order respecting such Costs.

In certain Cases Defendant may object to Cause being tried in the County Court.

XXXIX. If in any Action of Contract the Plaintiff shall claim a Sum exceeding Twenty Pounds, or if in any Action of Tort the Plaintiff shall claim a Sum exceeding Five Pounds, and the Defendant shall give Notice that he objects to the Action being tried in the County Court, and shall give Security, to be approved of by the Registrar, for the Amount claimed, and the Costs of Trial, in One of the Superior Courts of Common Law, not exceeding in the whole the Sum of One hundred and fifty Pounds, all Proceedings in the County Court in any such Action shall be stayed; but if in any such Action the Defendant do not object to the same being tried by the County Court, or shall fail to give the Security aforesaid, the County Court shall dispose of the Cause in the usual Way; and the Entry of the Plaint in such Action shall be a sufficient Commencement of the Suit to prevent the Operation of any Statute of Limitation applicable to such Claim: Provided that nothing herein contained shall prevent the Removal of any Cause from a County Court by Writ of Certiorari in the Cases and subject to the Conditions in and subject to which such Cause may now be removed.

XL. Where

Notice of Writ of Certiorari or Prohibition having been obtained to be sent to Registrar.

XL. Where a Writ of Certiorari or of Prohibition addressed to a Judge of a County Court shall have been granted by a Superior Court or a Judge thereof, on an ex-parte Application, and the Party who obtained it shall not lodge it with the Registrar, and give Notice to the opposite Party that it has issued, Two clear Days before the Day fixed for hearing the Cause to which it shall relate, the Judge of the County Court may, in his Discretion, order the Party, who obtained the Writ, to pay all the Costs of the Day, or so much thereof as he shall think fit, unless the Superior Court or a Judge thereof shall have made some Order respecting such Costs.

Application for Writ of Prohibition to a Judge shall be finally disposed of by Rule or Order.

XLI. When an Application shall be made to a Superior Court or a Judge thereof for a Writ of Prohibition to be addressed to a Judge of a County Court, the Matter shall be finally disposed of by Rule or Order, and no Declaration or further Proceedings in Prohibition shall be allowed.

Rule or Order substituted for Writ of Mandamus to a Judge or Officer of a County Court.

XLII. No Writ of Mandamus shall henceforth issue to a Judge or an Officer of the County Court for refusing to do any Act relating to the Duties of his Office; but any Party requiring such Act to be done may apply to any Superior Court or a Judge thereof, upon an Affidavit of the Facts for a Rule or Summons calling upon such Judge or Officer of a County Court, and also the Party to be affected by such Act, to show Cause why such Act should not be done; and if after the Service of such Rule or Summons good Cause shall not be shown, the Superior Court or Judge thereof may by Rule or Order direct the Act to be done, and the Judge or Officer of the County Court, upon being served with such Rule or Order, shall obey the same on pain of Attachment; and in any event the Superior Court or the Judge thereof may make such Order with respect to Costs as to such Court or Judge shall seem fit.

Refusal of Writ of Certiorari or Prohibition or of Rule or Order in the Nature of a Mandamus by One Court or Judge to be final.

XLIII. When any Superior Court or a Judge thereof shall have refused to grant a Writ of Certiorari or of Prohibition to be addressed to a Judge, or such Rule or Order as in the last preceding Section is specified, no other Superior Court or Judge thereof shall grant such Writ or Rule or Order; but nothing herein shall affect the Right of appealing from the Decision of the Judge of the Superior Court to the Court itself, or prevent a Second Application being made for such Writ or Rule or Order to the same Superior Court or a Judge thereof on Grounds different from those on which the First Application was founded.

Where Judgment does not exceed

XLIV. Where Judgment has been obtained in a County Court for a Sum not exceeding Twenty Pounds, exclusive of Costs, the

20*l.*, Judge may order Payment by Instalments; in other Cases, Consent of Plaintiffs necessary.

Judge may order such Sum and the Costs to be paid at such Time or Times, and by such Instalments, if any, as he shall think fit, and all such Monies shall be paid into Court; but in all other Cases he shall order the full Amount for which Judgment has been obtained to be paid either forthwith, or within Fourteen clear Days from the Date of the Judgment, unless the Plaintiff, or his Counsel, Attorney, or Agent, will consent that the same shall be paid by Instalments, in which Case the Judge shall order the same to be paid at such Time or Times, and by such Instalments, if any, as shall be consented to, and all such Monies, whether payable in One Sum or by Instalments, shall be paid into Court.

Priority of Executions issuing out of County Court.

XLV. The precise Time when any Application shall be made to a Registrar to issue a Warrant against the Goods of a Party shall be entered by him in the Execution Book and on the Warrant; and when more than One such Warrant shall be delivered to the High Bailiff to be executed he shall execute them in the Order of the Times so entered.

Priority of Executions issuing out of Superior Court and County Court.

XLVI. When a Writ against the Goods of a Party has issued from a Superior Court, and a Warrant against the Goods of the same Party has issued from a County Court, the Right to the Goods seized shall be determined by the Priority of the Time of the Delivery of the Writ to the Sheriff to be executed, or of the Application to the Registrar for the Issue of the Warrant to be executed; and the Sheriff, on Demand, shall, by Writing signed by any Clerk in the Office of the Under Sheriff, inform the High Bailiff of the precise Time of such Delivery of the Writ, and the Bailiff, on Demand, shall show his Warrant to any Sheriff's Officer, and such Writing purporting to be so signed, and the Endorsement on the Warrant, shall respectively be sufficient Justification to any High Bailiff or Sheriff acting thereon.

Summons for Commitment may, by Leave of Court, issue in Court in which Judgment was obtained.

XLVII. A Judgment Summons authorized by the Ninety-eighth Section of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, may, by Leave of the Judge, be obtained from the Court in which Judgment was obtained, although the Judgment Debtor shall not then dwell or carry on Business within the District of such Court, if the Judge shall think fit, in the Exercise of his Discretion, to grant such Leave.

Judgment may be removed if there are no Goods to be taken under it.

XLVIII. If a Judge of a Superior Court shall be satisfied that a Party against whom Judgment for an Amount exceeding Twenty Pounds, exclusive of Costs, has been obtained in a County Court, has no Goods or Chattels which can be conveniently taken to satisfy such

Judgment, he may, if he shall think fit, and on such Terms as to Costs as he may direct, order a Writ of Certiorari to issue to remove the Judgment of the County Court into One of the Superior Courts, and when removed it shall have the same Force and Effect, and the same Proceedings may be had thereon, as in the Case of a Judgment of such Superior Court; but no Action shall be brought upon such Judgment.

Possession of small Tenements may be recovered in County Courts by Landlords where Term has expired or been determined by Notice.

XLIX. When the Term and Interest of the Tenant of any corporeal Hereditament, where neither the Value of the Premises nor the Rent payable in respect thereof shall have exceeded Fifty Pounds by the Year, and upon which no Fine or Premium shall have been paid, shall have expired, or shall have been determined either by the Landlord or the Tenant by a legal Notice to quit, and such Tenant, or any Person holding or claiming by, through, or under him, shall neglect or refuse to deliver up Possession accordingly, the Landlord may enter a Plaint, at his Option, either against such Tenant or against such Person so neglecting or refusing, in the County Court of the District in which the Premises lie for the Recovery of the same, and thereupon a Summons shall issue to such Tenant or such Person so neglecting or refusing; and if the Defendant shall not, at the Time named in the Summons, show good Cause to the contrary, then, on Proof of his still neglecting or refusing to deliver up Possession of the Premises, and of the yearly Value and Rent of the Premises, and of the holding, and of the Expiration or other Determination of the Tenancy, with the Time and Manner thereof, and of the Title of the Plaintiff if such Title has accrued since the letting of the Premises, and of the Service of the Summons if the Defendant shall not appear thereto, the Judge may order that Possession of the Premises mentioned in the Plaint be given by the Defendant to the Plaintiff, either forthwith or on or before such Day as the Judge shall think fit to name; and if such Order be not obeyed, the Registrar, whether such Order can be proved to have been served or not, shall at the Instance of the Plaintiff issue a Warrant authorizing and requiring the High Bailiff of the Court to give Possession of such Premises to the Plaintiff.

In Plaint for Recovery of Possession Plaintiff may claim for Rent and mesne Profits.

L. In any such Plaint against a Tenant as in the last preceding Section is specified the Plaintiff may add a Claim for Rent or mesne Profits, or both, down to the Day appointed for the Hearing, or to any preceding Day named in the Plaint, so as the same shall not exceed Fifty Pounds, and any Misdescription in the Nature of such Claim may be amended at the Trial.

Possession of small Tenements may be recovered in County Court by Landlords for Nonpayment of Rent.

LI. When the Rent of any corporeal Hereditament, where neither the Value of the Premises nor the Rent payable in respect thereof exceeds Fifty Pounds by the Year, shall for One Half Year be in arrear, and the Landlord shall have Right by Law to re-enter for the Nonpayment thereof, he may, without any formal Demand or Re-entry, enter a Plaint in the County Court of the District in which the Premises lie for the Recovery of the Premises, and thereupon a Summons shall issue to the Tenant, the Service whereof shall stand in lieu of a Demand and Re-entry; and if the Tenant shall Five clear Days before the Return Day of such Summons pay into Court all the Rent in arrear, and the Costs, the said Action shall cease, but if he shall not make such Payment, and shall not at the Time named in the Summons show good Cause why the Premises should not be recovered, then, on Proof of the yearly Value and Rent of the Premises, and of the Fact that One Half Year's Rent was in arrear before the Plaint was entered, and that no sufficient Distress was then to be found on the Premises to countervail such Arrear, and of the Landlord's Power to re-enter, and of the Rent being still in arrear, and of the Title of the Plaintiff if such Title has accrued since the letting of the Premises, and of the Service of the Summons if the Defendant shall not appear thereto, the Judge may order that Possession of the Premises mentioned in the Plaint be given by the Defendant to the Plaintiff on or before such Day, not being less than Four Weeks from the Day of Hearing, as the Judge shall think fit to name, unless within that Period all the Rent in arrear and the Costs be paid into Court; and if such Order be not obeyed, and such Rent and Costs be not so paid, the Registrar shall, whether such Order can be proved to have been served or not, at the Instance of the Plaintiff, issue a Warrant authorizing and requiring the High Bailiff of the Court to give Possession of such Premises to the Plaintiff, and the Plaintiff shall from the Time of the Execution of such Warrant hold the Premises discharged of the Tenancy, and the Defendant, and all Persons claiming by, through, or under him, shall, so long as the Order of the Court remains unreversed, be barred from all Relief in Equity or otherwise.

Sub-Tenant served with Summons to recover Possession must give Notice to his immediate Landlord, who may come in and defend.

LII. Where any Summons for the Recovery of a Tenement as is herein-before specified shall be served on or come to the Knowledge of any Sub-Tenant of the Plaintiff's immediate Tenant, such Sub-Tenant being an Occupier of the whole or of a Part of the Premises sought to be recovered, he shall forthwith give Notice thereof to his immediate Landlord under Penalty of forfeiting Three Years Rackrent of the Premises held by such Sub-Tenant to such Landlord, to be recovered by such Landlord by Action in the Court from which

Summons shall have issued, and such Landlord, on the Receipt of such Notice, if not originally a Defendant, may be added or substituted as a Defendant to defend Possession of the Premises in question.

In Plaints to recover Possession of Premises how Summonses may be served.

LIII. A Summons for the Recovery of a Tenement may be served like other Summonses to appear to Plaints in County Courts; and if the Defendant cannot be found, and his Place of Dwelling shall either not be known or Admission thereto cannot be obtained for serving any such Summons, a Copy of the Summons shall be posted on some conspicuous Part of the Premises sought to be recovered, and such Posting shall be deemed good Service on the Defendant.

Warrants to deliver Possession sufficient Justification to Bailiffs for Entry on Premises. When such Warrants are to be served.

LIV. Any Warrant to a High Bailiff to give Possession of a Tenement shall justify the Bailiff named therein in entering upon the Premises named therein with such Assistants as he shall deem necessary, and in giving Possession accordingly; but no Entry upon any such Warrant shall be made except between the Hours of Nine in the Morning and Four in the Afternoon.

Such Warrants to be in force for Three Months from the Day named for delivering Possession.

LV. Every such Warrant shall, on whatever Day it may be issued, bear Date on the Day next after the last Day named by the Judge in his Order for the Delivery of Possession of the Premises in question, and shall continue in force for Three Months from such Date and no longer, but no Order for Delivery of Possession need be drawn up or served.

Amendment.

LVI. The Judge of a County Court may at all Times amend all Defects and Errors in any Proceeding in such Court, whether there is anything in Writing to amend by or not, and whether the Defect or Error be that of the Party applying to amend, or not; and all such Amendments may be made with or without Costs, and upon such Terms as to the Judge may seem fit; and all such Amendments as may be necessary for the Purpose of determining in the existing Suit the real Question in controversy between the Parties shall be so made, if duly applied for.

Before whom Affidavit may be sworn.

LVII. Any Affidavit to be used in a County Court may be sworn before a Judge or Registrar of a County Court, without the Payment of any Fee, or before a Commissioner to administer Oaths in Chancery in England, or a London Commissioner to administer Oaths in Chancery, or a Commissioner for taking Affidavits in any Superior Court, such Commissioners respectively not being Registrars, or before a Justice of the Peace.

Warrants of Commitment, how long to be in force.

LVIII. Every Warrant of Commitment which shall issue from a County Court shall, on whatever Day it may be issued, bear Date on the Day on which the Order for Commitment was made, and shall continue in force for One Year from such Date and no longer, but no Order for Commitment shall be drawn up or served.

No Officer or Party shall be deemed a Trespasser by reason of Irregularity.

LIX. No Officer of a County Court in executing any Warrant of a County Court, and no Person at whose Instance any such Warrant shall be executed, shall be deemed a Trespasser by reason of any Irregularity or Informality in any Proceeding on the Validity of which such Warrant depends, or in the Form of such Warrant, or in the Mode of executing it, but the Party aggrieved may bring an Action for any special Damage which he may have sustained by reason of such Irregularity or Informality against the Party guilty thereof, and in such Action he shall recover no Costs, unless the Damages awarded shall exceed Forty Shillings.

Commitment Summonses and Warrants of Commitment sufficient if in Form given in Schedule.

LX. Any Judgment Summons issued out of a County Court under Section Ninety-eight of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, or under this Act, or any Warrant of Commitment in respect of an unsatisfied Judgment or Order of a County Court, may respectively be in the Form or to the Effect given in Schedule (B.) to this Act, numbered respectively (2.) and (3.); and all such Summonses or Warrants shall be deemed sufficient to justify Proceedings under them without any further Statement of Facts to show Jurisdiction.

Bankruptcy and Insolvency of Plaintiff, when not to abate Action.

LXI. The Bankruptcy or Insolvency of the Plaintiff in any Action in a County Court, which the Assignees might maintain for the Benefit of the Creditors, shall not cause the Action to abate if the Assignees shall elect to continue such Action, and to give Security for the Costs thereof, within such reasonable Time as the Judge shall order, but the hearing of the Cause may be adjourned until such Election is made; and in case the Assignees do not elect to continue the Action, and to give such Security within the Time limited by the Order, the Defendant may avail himself of the Bankruptcy or Insolvency as a Defence to the Action.

Registrar to grant Replevins.

LXII. The Powers and Responsibilities of the Sheriff with respect to Replevin Bonds and Replevins shall henceforth cease; and the Registrar of the County Court of the District in which any Distress subject to Replevin shall be taken shall be empowered, subject to the Regulations herein-after contained, to approve of Replevin Bonds, and to grant Replevins, and to issue all necessary Process in relation thereto, and such Process shall be executed by the High Bailiff.

LXIII. Such Registrar shall, at the Instance of the Party whose Goods shall have been distrained, cause the same to be replevied to such Party, on his giving one or other of such Securities as are mentioned in the next Two succeeding Sections.

Replevins to be granted, on Securities given.

LXIV. An Action of Replevin may be commenced in any Superior Court in the Form applicable to Personal Actions therein, and such Court shall have Power to hear and determine the same; and if the Replevisor shall wish to commence Proceedings in any Superior Court, he shall, at the Time of replevying, give Security, to be approved of by the Registrar, for such an Amount as such Registrar shall deem sufficient to cover the alleged Rent or Damage in respect of which the Distress shall have been made, and the probable Costs of the Cause in a Superior Court, conditioned to commence an Action of Replevin against the Distrainer in such Superior Court as shall be named in the Security, within One Week from the Date thereof, and to prosecute such Action with Effect and without Delay, and unless Judgment thereon be obtained by Default, to prove before such Superior Court that he had good Ground for believing either that the Title to some corporeal or incorporeal Hereditament, or to some Toll, Market, Fair, or Franchise, was in question, or that such Rent or Damage exceeded Twenty Pounds, and to make Return of the Goods, if a Return thereof shall be adjudged.

Replevins may be commenced in Superior Courts.

Conditions of Security to be given in such Cases.

LXV. If the Replevisor shall wish to commence Proceedings in a County Court, he shall at the Time of replevying give Security, to be approved of by the Registrar, for such an Amount as such Registrar shall deem sufficient to cover the alleged Rent or Damage in respect of which the Distress shall have been made, and the probable Costs of the Cause in the County Court, conditioned to commence an Action of Replevin against the Distrainer in the County Court of the District in which the Distress shall have been taken, within One Month from the Date of the Security, and to prosecute such Action with Effect and without Delay, and to make Return of the Goods, if a Return thereof shall be adjudged.

Conditions of Security to be given when Replevin brought in County Court.

LXVI. Any Action of Replevin brought in a County Court shall be removed into any Superior Court by Writ of Certiorari, if the Defendant shall apply to such Superior Court or to a Judge there for such Writ, and shall give Security, to be approved of by the Master of such Superior Court, for such Amount, not exceeding One hundred and fifty Pounds, as such Master shall think fit, conditioned to defend such Action with Effect, and, unless the Replevisor shall discontinue or shall not prosecute such Action, or become nonsuit therein, to prove before such Superior Court that the

Replevins shall, at Instance of Defendant, be removed into Superior Court by Certiorari, in certain Cases.

the Defendant had good Ground for believing, either that the Title to some corporeal or incorporeal Hereditament, or to some Toll, Market, Fair, or Franchise, was in question, or that the Rent or Damage in respect of which the Distress shall have been taken exceeded Twenty Pounds; and every such Superior Court shall have Power to determine the same Action.

Appeal in Actions of Replevin, and Proceedings in Interpleader, and for Recovery of Tenements.

LXVII. An Appeal from the Decision of a County Court, on the same Grounds and subject to the same Conditions as are provided by the Fourteenth Section of the Act of the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-one, shall be allowed in all Actions of Replevin where the Amount of Rent or Damage exceeds Twenty Pounds, and in all Actions for the Recovery of Tenements where the yearly Rent or Value of the Premises exceeds Twenty Pounds, and in Proceedings in Interpleader where the Money claimed or the Value of the Goods or Chattels claimed, or of the Proceeds thereof, exceeds Twenty Pounds, and in all Actions and Proceedings where the Sum claimed exceeds Twenty Pounds.

Parties may agree not to appeal.

LXVIII. No Appeal shall lie from the Decision of a County Court, if before such Decision is pronounced both Parties shall agree, in Writing signed by themselves or their Attorneys or Agents, that the Decision of the Judge shall be final, and no such Agreement shall require a Stamp.

How Securities under County Court Acts to be given and enforced.

LXIX. Where by this Act, or any Act relating to the County Courts, a Party is required to give Security, such Security shall be at the Cost of the Party giving it, and in the Form of a Bond, with Sureties, to the other Party or intended Party in the Action or Proceeding: Provided always, that the Court in which any Action on the Bond shall be brought may by Rule or Order give such Relief to the Obligors as may be just, and such Rule or Order shall have the Effect of a Defeasance of such Bond.

Where Security is required to be given, a Deposit of Money may be made in lieu thereof.

LXX. Where by this Act or any Acts relating to the County Courts a Party is required to give Security, he may in lieu thereof deposit with the Registrar, if the Security is required to be given in a County Court, or with a Master of the Superior Court if the Security is required to be given in such Court, a Sum equal in Amount to the Sum for which he would be required to give Security, together with a Memorandum, to be approved of by such Registrar or Master, and to be signed by such Party, his Attorney or Agent, setting forth the Conditions on which such Money is deposited, and the Registrar or Master shall give to the Party paying a written Acknowledgment of such Payment; and the Judge of the County Court, when the Money shall have been deposited in such Court, or a Judge of the Superior Court when the Money shall have been deposited in a Superior Court, may, on the same Evidence as would be required to enforce or avoid such Bond as in the last preceding Section is mentioned, order such Sum so deposited to be paid out to such Party or Parties as to him shall seem just.

Claimant of Goods taken in Execution must deposit their Values or pay Costs of keeping Possession, otherwise Goods shall be sold.

LXXI. Where any Claim shall be made under Section One hundred and eighteen of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, to or in respect of any Goods taken in Execution under the Process of a County Court, the Claimant may deposit with the Bailiff either the Amount of the Value of the Goods claimed, such Value to be fixed by Appraisement in case of Dispute, to be by such Bailiff paid into Court, to abide the Decision of the Judge upon such Claim, or the Sum which the Bailiff shall be allowed to charge as Costs for keeping Possession of such Goods until such Decision can be obtained, and in default of the Claimant so doing the Bailiff shall sell such Goods as if no such Claim had been made, and shall pay into Court the Proceeds of such Sale, to abide the Decision of the Judge.

Acknowledgments by married Women under 3 & 4 W. 4. c. 74. to be received by Judge of a County Court.

LXXII. Any Acknowledgment to be made by any married Woman of any Deed under the Act of the Third and Fourth Years of the Reign of His late Majesty King William the Fourth, Chapter Seventy-four, may be received by a Judge of a County Court in the same Manner as such Acknowledgment may be received by a Judge of a Superior Court.

Clause D.
When Debtors Prison of County is distant from a Court, the nearest Debtors Prison of adjoining Court may, by Order of a Secretary of State, be used.

LXXIII. When any Prison wherein any Person committed by a County Court may be confined is situated at an inconvenient Distance from such Court, One of Her Majesty's Principal Secretaries of State may, by Order under his Hand, direct that Persons committed by such Court shall be confined in any other Prison named in such Order to which Persons may be committed from any other County Court, though such Prison may be in a different County, District, City, Borough, or Place from that in which such first-mentioned Court shall be held, and may from Time to Time vary such Order; provided that no such Order shall be made without the Consent of the Visiting Justices of the Prison in which such Persons are to be directed by any such Order to be confined; and every Person so confined shall be supported at the Expense of the County, District, City, Borough, or Place in which he shall have resided at the Time of his Committal.

When Goods seized under Process of County Court Landlord may claim certain Rent in arrear.

LXXIV. Section One of the Act of the Eighth Year of the Reign of Queen Anne, Chapter Fourteen, shall not apply to Goods taken in Execution under the Warrant of a County Court, but the Landlord of any Tenement in which any such Goods shall be so taken may claim the Rent thereof at any Time within Five clear Days from the Date of such taking, or before the Removal of the Goods, by delivering to the Bailiff or Officer making the Levy any Writing signed by himself or his Agent, which shall state the Amount of Rent claimed to be in arrear, and the Time for and in respect of which such Rent is due; and if such Claim be made, the Bailiff or Officer making the Levy shall in addition thereto distrain for the Rent so claimed and the Costs of such Distress, and shall not within Five Days next after such Distress sell any Part of the Goods taken, unless they be of a perishable Nature, or upon the Request in Writing of the Party whose Goods shall have been taken; and the Bailiff shall afterwards sell such of the Goods under the Execution and Distress as shall satisfy, first, the Costs of and incident to the Sale, next the Claim of such Landlord, not exceeding the Rent of Four Weeks where the Tenement is let by the Week, the Rent of Two Terms of Payment where the Tenement is let for any other Term less than a Year, and the Rent of One Year in any other Case, and lastly the Amount for which the Warrant issued; and if any Replevin be made of the Goods so taken, the Bailiff shall, notwithstanding, sell such Portion thereof as will satisfy the Costs of and incident to the Sale under the Execution, and the Amount for which the Warrant issued; and in either event the Overplus of the Sale, if any, and the Residue of the Goods, shall be returned to the Defendant; and the Poundage of the High Bailiff and Broker for keeping Possession, Appraisement, and Sale under such Distress, shall be the same as would have been payable if the Distress had been an Execution of the County Court, and no other Fees shall be demanded or taken in respect thereof.

Clause E. Removal of Bonds from Registry of Common Pleas.

LXXV. If any Bond given under the Provisions of any Act relating to the County Courts shall have been registered in the Court of Common Pleas in England, and the Condition of such Bond shall have been satisfied, the Commissioners of Her Majesty's Treasury, by Certificate under the Hands of any Two of them, may authorize the proper Officer of the said Court to enter up Satisfaction on the Record of such Bond or Obligation.

Clause F. Compensations to Officers of Hundred Court of Wirral in

LXXVI. From and after the passing of this Act, no Action or Suit shall be commenced in the Hundred or Wapentake Court of Wirral in the County of Chester, and the Authority and Jurisdiction of the said Court shall cease, and all Actions or Suits depending in the said Court shall be transferred, with all the Proceedings thereon, to the County Court for the District in which the respective Defendants shall then reside; and such Actions and Suits shall be dealt with and decided, as to the Costs of the same, as well as in other respects, according to the Practice of the County Court or of the said Hundred Court, according to the Discretion of the Judge of the County Court, which Court shall, for the Purpose of such Actions or Suits, be deemed to have all the Power and Jurisdiction possessed by the said Hundred Court before the passing of this Act; and every Person who is legally entitled to any Franchise or Office in or in respect of the said Hundred Court shall be entitled to make a Claim for Compensation to the Commissioners of Her Majesty's Treasury within Six Months after the passing of this Act; and the said Commissioners, in such Manner as they shall think fit, may inquire what was the Nature of the Franchise or Office, and what was the Tenure thereof, and what were the lawful Fees and Emoluments in respect of which such Compensation should be allowed; and the said Commissioners in each Case shall award such gross or yearly Sum, and for such Time as they shall think just to be awarded, upon consideration of the special Circumstances of each Case: Provided always, that if any Person holding any Office in the said Hundred Court shall be appointed to any Public Office or Employment, the Payment of the Compensation awarded to him under this Act, so long as he shall continue to receive the Salary or Emoluments of such Office or Employment, shall be suspended, if the Amount of such Salary or Emoluments be greater than the Amount of the Compensation, or, if not, shall be diminished by the Amount of such Salary or Emoluments; and the several Compensations herein-before granted shall be paid out of Monies to be voted by Parliament, and the Commissioners of Her Majesty's Treasury of the said United Kingdom are hereby authorized to pay the same accordingly.

the County of Chester.

CLAUSE G.

Fees specified in Schedule to be taken, and Table of Fees to be exhibited in Court and Registrar's Office.

LXXVII. The Fees payable on the Proceedings in the County Courts mentioned in Schedule (C.) to this Act shall be those therein specified; and such Fees shall, except in Interpleaders, or where such Fees shall be payable in respect of keeping Possession, appraising or selling Goods seized, be paid in the first instance by the Party on whose Behalf any such Proceeding is to be taken, before such Proceeding is taken; and in default of the Payment of any Fees, Payment thereof shall, by Order of the Judge, be enforced by such Means as might be employed to recover any Debt adjudged by the Court to be paid; and a Table of all Fees shall be posted in some conspicuous Place in every Court House and in every Registrar's Office.

CLAUSE H.
Treasury to regulate Fees to be taken in County Courts.

LXXVIII. The Commissioners of Her Majesty's Treasury from Time to Time, with the Consent of the Lord Chancellor, may lessen or increase the Fees which are specified in Schedule (C.) to this Act, or which are now payable on Proceedings in the County Courts taken under any Act not herein-before recited, and may substitute other Fees in lieu thereof, and may order new Fees to be paid on any Proceedings which are now or shall hereafter be authorized to be taken in such Courts.

CLAUSE I.
Salaries of Judges to be paid out of Consolidated Fund; their Travelling Expenses to be voted.

LXXIX. The Salaries of the Judges of the County Courts shall be paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and the Commissioners of Her Majesty's Treasury are hereby empowered to pay the same accordingly; and the Sums which are now, or may hereafter be, allowed to them for Travelling Expenses shall be paid out of Monies that may be voted by Parliament for that Purpose.

CLAUSE K.
Salaries of the Judges.

LXXX. Whereas by the Fourteenth Section of the said Act passed in the Session of Parliament holden in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-four, it was enacted, that after the passing of the said Act the greatest Salaries to be received in any Case by the Judges of the County Courts should be One thousand five hundred Pounds, but that in no Case should any Judge be paid a less Salary than Twelve hundred Pounds: And whereas the Commissioners of Her Majesty's Treasury have ordered that the Salaries of the Judges whose Names are mentioned in the Schedule marked (D.) annexed to this Act should be fixed at the Amounts set opposite their respective Names in such Schedule: And whereas it is desirable that the Salaries of the Judges of the County Courts should be fixed by Parliament at One uniform Rate: Be it enacted, That every Judge of a County Court shall be paid a Salary of Twelve hundred Pounds a Year, and no more: Provided always, that the Judges mentioned in the said Schedule shall continue to receive the Salaries therein mentioned to be payable to them respectively so long as they shall continue to be Judges of the County Courts: And provided also, that nothing herein contained shall affect the Right or Title of any County Court Judge to receive any Sum or Sums of Money now or hereafter to be made payable to him for defraying his Travelling Expenses.

CLAUSE L.
Registrars to be paid by Salaries.

LXXXI. The Registrars of the Courts shall be paid by Salaries; and the Principle on which the said Salaries shall be so regulated shall be, that the Registrar of each Court in which the Plaints entered do not exceed the Number of Two hundred in a Year shall have an annual Salary of One hundred and twenty Pounds; and that in

Courts where the Plaints exceed Two hundred in the Year the Salaries shall be increased by Sums of Five Pounds for every Twenty-five additional Plaints up to One thousand Plaints inclusive, and then by Sums of Four Pounds for every Twenty-five additional Plaints up to Six thousand inclusive; and such Salaries shall be inclusive of all Salaries to the Clerks employed by the Registrar in the Business of their respective Courts, and of all Emoluments whatsoever except those receivable by them in Proceedings in Insolvency or Protection; and in the Courts in which the Plaints exceed that Number the Amount of Salary shall be fixed by the said Commissioners, with the Consent of the Lord Chancellor, but in no Case shall the net Salary to be allowed exceed the maximum Salary of Seven hundred Pounds a Year as provided by the Fifteenth and Sixteenth Victoria, Chapter Fifty-four: Provided always, that the Salary of any Registrar acting in a similar Capacity, or as Clerk, before the passing of the Act of the Ninth and Tenth Victoria, Chapter Ninety-five, in any Court mentioned in Schedule A. to that Act, shall not (exclusive of all Salaries to the Clerks to be employed by them as aforesaid, the Amount of such Salaries and the Number of such Clerks to be sanctioned and approved by the Commissioners of Her Majesty's Treasury,) be limited to any Sum less than the average Amount of the Fees and Emoluments of his Office during the Seven Years next before the passing of the said last-mentioned Act, such Amount to be ascertained by the Commissioners of Her Majesty's Treasury, or to a Sum less than the Amount which he now receives in pursuance of any Arrangement upon the Abolition of the Court of which he was the Clerk or Registrar.

CLAUSE M.
High Bailiffs to be paid partly by Salaries and partly by Fees.

LXXXII. The High Bailiffs of the Courts shall be paid by Salaries to be fixed and regulated from Time to Time by the Commissioners of Her Majesty's Treasury, with the Consent of the Lord Chancellor, and shall, in addition to such Salaries, receive for their own Use the Fees appointed for keeping Possession of Goods under Executions, and such Salaries shall include all Payments made by the High Bailiffs to their Under Bailiffs.

CLAUSE N.
Salaries of Registrars and High Bailiffs to be paid out of Fees.

LXXXIII. The Salaries of the Registrars and High Bailiffs shall be paid out of the Produce of the Fees payable under the Provisions of this Act; and whenever the Amount of such Fees shall not be sufficient to pay such Salaries the Deficiency shall be made good out of any Monies to be provided by Parliament for that Purpose; and the Surplus which from Time to Time shall remain after Payment of the said Salaries shall be paid over to the Credit of the said Consolidated Fund.

Expense of building, &c. to be paid out of Monies to be provided by Parliament.

LXXXIV. The Expense of building, purchasing, or providing any Messuages and Lands for the Purposes of the County Courts, and of repairing, furnishing, cleaning, lighting, and warming the Court Houses and Offices, and of Payment of the Salaries of the necessary Servants for taking charge of such Court Houses and Offices, and of supplying the Courts and Offices with Law and Office Books and Stationery, and of Postage Stamps, and the Disbursements of the High Bailiffs in conveying to Prison Persons committed by the County Courts, and all other Expenses incident to the holding of the said Courts, shall be paid by the Commissioners of Her Majesty's Treasury out of any Monies to be from Time to Time provided by Parliament for such Purposes.

SCHEDULES referred to in the foregoing Act.

SCHEDULE A.

(1.)—*Parts of Acts repealed.*

Reference to Act.	Title of Act.	Extent of Repeal.
9 & 10 Vict. c. 95. -	An Act for the more easy Recovery of Small Debts and Demands in England.	The whole of Sections 37., 52., 92., 107., 121, 122, 123., 126, 127., and 139. So much of Section 58. as relates to Actions for malicious Prosecution. So much of Section 102. as enacts that "no Protection Order or "Certificate granted by any "Court of Bankruptcy, or for "the Relief of Insolvent Debtors, shall be available to discharge any Defendant from "any Commitment" under the Order of a Judge. So much of Section 142. as applies to the Word "Agent."
12 & 13 Vict. c. 101.	An Act to amend the Act for the more easy Recovery of Small Debts and Demands in England, and to abolish certain Inferior Courts of Record.	The whole of Section 6.
13 & 14 Vict. c. 61. -	An Act to extend the Act for the more easy Recovery of Small Debts and Demands in England, and to amend the same.	The whole of Sections 5, 6, 7., 17., 20, 21., and 23.
15 & 16 Vict. c. 54. -	An Act further to facilitate and arrange Proceedings in the County Courts.	The whole of Section 1.
17 & 18 Vict. c. 16. -	An Act to amend the Act of the Thirteenth and Fourteenth Victoria, Chapter Sixty-one, and the Act of the Fifteenth and Sixteenth Victoria, Chapter Fifty-four.	The whole of Section 1.

SCHEDULE B.

No. 1.

Summons to obtain Judgment by Default on personal Service.

No. [*of Plaint*].
In the [*Title of Court issuing Summons*].
[*Seal.*] Between *A.B.*, Plaintiff,
and
C.D., Defendant.

[*Name, Description, and Address of Defendant.*]

Take notice, That, unless at least Six clear Days before the [*Day of Appearance to Summons*] you return to the Registrar of this Court at [*Place of Office*] the Notice given below, dated and signed by yourself, or your Attorney or your Agent, you will not afterwards be allowed to make any Defence to the Claim which [*Name, Description, and Address of Plaintiff*] makes on you, as per Margin, the Particulars of which are hereunto annexed; but the Plaintiff may, without giving any Proof in support of such Claim, proceed to Judgment and Execution. If you return such Notice to the Registrar within the Time specified, you must appear at a County Court to be holden at on the Day of 185 , at the Hour of in the noon, to answer the above Claim, which will be heard on that Day.

	£	s.	d.
Claim	...	...	...
Fee for Plaint	...	...	...
Attorney's Costs	...	...	...
Total Amount of Debts and Costs	...	...	...

Dated this Day of 185 .
____________ Registrar of the Court.

See Back.

Notice of Intention to defend.

No. [*of Plaint*]
In the [*Title of Court.*]
A.B. v. *C.D.*
I intend to defend this Cause.
Dated this Day of 185 .
____________ (a) Defendant.

(a) Here must be signed the Name of Defendant, or of his Attorney or Agent, and in either of the last Two Cases the Words "Attorney for," or "Agent for," must be added.

[*To be indorsed on the Summons.*]

If you pay the Debt and Costs, as per Margin on the other Side, into the Registrar's Office, before the Day of Hearing, and without

returning the Notice of Intention to defend, you will avoid further Costs.

If you do not return the Notice of Intention to defend, but allow Judgment against you by Default, you will *save Half the Hearing Fee*, and the Order upon such Judgment will be to pay the Debt and Costs forthwith [*or* by Instalments, *to be specified, as in Plaintiff's written Consent*].

If you admit a Part only of the Claim, you must return the Notice of Intention to defend within the specified Time; and you may, by paying into the Registrar's Office the Amount so admitted, together with Costs proportionate to the Amount you pay in, Six clear Days before the Day of Hearing, avoid further Costs, unless the Plaintiff at the Hearing shall prove a Claim against you exceeding the Sum so paid.

If you intend to rely on a Set-off, Infancy, Coverture, a Statute of Limitations, or a Discharge under a Bankrupt or Insolvent Act, as a Defence, you must, in addition to the Notice of Intention to defend, give to the Registrar Notice of such special Defence Six clear Days before the Day of hearing; and such last-mentioned Notice must contain the Particulars required by the Rules of the Court; and you must deliver to the Registrar as many Copies of such Notice as there are Plaintiffs, and an additional Copy for the Use of the Court. If your Defence be a Set-off, you must, with the Notice thereof, also deliver to the Registrar a Statement of the Particulars thereof. If your Defence be a Tender, you must pay into Court, before or at the Hearing, the Amount tendered.

If you give such Notice of Intention to defend within the Time specified, you may have the Case tried by a Jury, on giving Notice in Writing at the Registrar's Office, Two clear Days before the Hearing, and on Payment of Five Shillings for the Use of such Jury.

Summonses for Witnesses and the Production of Documents may be obtained gratis at the Office of the Registrar of this Court.

Hours of Attendance at the Office of the Registrar of this Court at [*Place of Office*] from Ten till Four.

This Summons must be served *personally* on the Defendant Twelve clear Days before the Day appointed for the Hearing.

No. 2.

Summons for Commitment.

In the [*Title of Court issuing Summons*].

[*Seal.*] No. [*of Summons*].
No. [*of Judgment or Order*].

BETWEEN *A.B.*, Plaintiff,
and
C.D., Defendant.

Whereas the Plaintiff obtained a Judgment [*or if no Judgment has been obtained, or if a fresh Order has been obtained upon a Judgment,* an

an Order] against you in the County Court of on the Day of 185 , for the Payment of £ for Debt [*or* Damages], and £ for Costs, upon which Judgment [*or* Order], and the subsequent Process issued thereon, the Sum of £ is now due: You are therefore hereby summoned to appear personally in this Court at [*Place where Court holden*] on the Day of 185 , at the Hour of o'Clock in the noon, to be examined by the Court touching your Estate and Effects, and the Circumstances under which you contracted the said Debt [*or* incurred the said Damages], and as to the Means and Expectation you then had, and as to the Means you still have, of discharging the said Debt [*or* Damages], and as to the Disposal you may have made of any Property. And take notice, that if you disobey this Summons the Court may commit you to Prison.

Dated this Day of , 185 .

________________ Registrar of the Court.

Hours of Attendance at the Office of the Registrar of this Court [*Place of Office*] from Ten till Four.

When issued under this Act, insert
"Issued by Leave of the Judge."

No. 3.

Warrant of Commitment.

In the [*Title of Court ordering Committal*].

[*Seal.*] No. [*of Commitment*].

No. [*of Judgment Summons*].

BETWEEN *A.B.*, Plaintiff,
and
C.D., Defendant.

To the High Bailiff and others the Bailiffs of the said Court, and all Peace Officers within the Jurisdiction of the said Court, and to the Governor or Keeper of the [*Prison used by the Court*].

Whereas the Plaintiff obtained a Judgment [*or* Order] against the Defendant in the County Court of on the Day of 185 , for the Payment of £ for Debt [*or* Damages] and Costs, upon which Judgment [*or* Order], and the subsequent Process issued thereon, the Sum of £ was at the Date of the issuing of the Summons herein-after mentioned and still is due:

And whereas a Summons was, at the Instance of the Plaintiff, duly issued out of this Court, by which the Defendant was required to

appear at this Court on the Day of 185 . to answer such Questions as might be put to him pursuant to Section Ninety-eight of the Statute 9th and 10th Victoria, Chapter 95., in relation to such Debt [*or* Damages], which Summons was proved to this Court to have been personally and duly served on the Defendant:

And whereas this Court, at the Hearing of the said Summons, ordered that the Defendant should be committed to Prison for Days, for [*as the Case may be*] not appearing pursuant to such Summons, or alleging a sufficient Excuse for not so appearing;

[*or* for refusing to be sworn];

[*or* for refusing to answer such Questions as aforesaid to the Satisfaction of the Judge];

[*or* for contracting the said Debt under false Pretences, *or* by means of Fraud *or* Breach of Trust, *or* without reasonable Expectation of being able to pay the same];

[*or* for making a Gift or Transfer of Part of his Property, with Intent to defraud his Creditors];

[*or* for having charged, *or* removed, *or* concealed Part of his Property with Intent to defraud his Creditors];

[*or* for not having satisfied the said Judgment and Costs, having had sufficient Means and Ability so to do]:

These are therefore to require you the said High Bailiff, Bailiffs and others, to take the Defendant, and to deliver him to the Governor or Keeper of the [*Prison used by the Court*], and you the said Governor or Keeper to receive the Defendant, and him safely keep in the said Prison for Days from the Arrest under this Warrant, or until he shall be sooner discharged by due Course of Law.

Dated this [*insert Date of Order*] Day of 185 .

E.F.
Registrar of the Court.

	£.	*s.*	*d.*
Amount remaining due - - - -	...	...	...
Poundage for issuing this Warrant - -	...	...	...
Total -	...	...	...

This Warrant *remains in force One Year* from the Date thereof.

This Form to be applicable to all Judgments recovered at the Hearing, or by Default, or by Consent, and to all Orders within the Jurisdiction of the Court.

SCHEDULE C.

For every Plaint,—Tenpence in the Pound.

No Fee shall be payable on any Application for a new Trial, or to set aside Proceedings, or in the Nature of a Scire facias, or for a Summons in an Interpleader.

For every Judgment by Consent under the 13 & 14 Vict. c. 61. ss. 8. or 9., and for every Judgment by Default,—One Shilling in the Pound.

For every Hearing,—Two Shillings in the Pound.

An additional Hearing Fee shall be taken for every new Trial.

The Hearing on Interpleader shall not be prepaid, but shall be estimated on the Amount of the Money or the Value of the Goods claimed, which Value, in case of Dispute, shall be assessed by the Judge, who at the Hearing shall direct by whom and when and how such Fee shall be paid.

No Fee shall be payable for hearing any Application for a New Trial, or to set aside Proceedings, or in the Nature of a Scire Facias.

For every Jury,—Five Shillings shall be paid to the Registrar by the Party demanding the Jury, on such Demand, for the Use of the Jurors.

For every Summons for Commitment under the 9 & 10 Vict. c. 95. Sect. 98.,—Threepence in the Pound on the Amount of the original Demand then remaining due.

For every Hearing of the Matters mentioned in such Summons for Commitment,—Sixpence in the Pound on the Amount last aforesaid.

For issuing every Warrant against the Body or Goods,—Eighteenpence in the Pound on the Amount for which such Warrant shall issue.

For issuing every Warrant to deliver Possession of Tenements,—Eighteenpence in the Pound.

For taking the Acknowledgment of a married Woman,—One Pound.

HIGH BAILIFF'S FEES.

For keeping Possession of Goods till Sale, per Day, (including Expenses of Removal, Storeage of Goods, and all other Expenses,) not exceeding Five Days,—Sixpence in the Pound on the Value of the Goods seized, to be fixed by Appraisement in case of Dispute.

BROKERS AND APPRAISERS FEES.

For the Appraisement of Goods, whether by One Broker or more,—Sixpence in the Pound on the Value of the Goods appraised, over and above the Stamp Duty.

For the Sale of Goods, including Advertisements, Catalogues, Sale and Commission, and Delivery of Goods,—One Shilling in the Pound on the net Produce of Sale.

In all Plaints for the Recovery of Debt or Damages, all Poundage, except where otherwise specified in this Schedule, shall be estimated on the Amount of the Claim.

In Replevins all Poundage, except as aforesaid, shall be estimated on the Amount of the alleged Rent or Damage, to be fixed by the Registrar.

In Plaints for the Recovery of Tenements when the Term has expired or been determined by Notice, all Poundage, except as aforesaid, shall be estimated on the Amount of the weekly, monthly, or yearly Rent of the Tenement, as such Tenement shall have been let by the Week or by the Month, or for any longer Period; and if no Rent shall have been reserved, then on the Amount of the Half-yearly Value of the Tenement, to be fixed by the Registrar.

If in any Plaint for the Recovery of Tenements a Claim be made for Rent or Mesne Profits, an additional Poundage shall be paid on the Amount of such Claim.

In Plaints for the Recovery of Tenements for Nonpayment of Rent, all Poundage, except as aforesaid, shall be estimated on the Amount of the Half-yearly Rent of the Tenement.

In every Case where the Poundage would but for this Rule be estimated on an Amount exceeding Twenty Pounds, it shall be estimated at Twenty Pounds only.

In every Case where the Poundage cannot be estimated by any Rule in this Schedule, it shall be estimated on Twenty Pounds.

All Fractions of a Pound, for the Purpose of calculating Poundage, shall be treated as an entire Pound.

Where the Plaintiff recovers less than the Amount of his Claim, so as to reduce the Scale of Costs, he shall pay the Difference, unless the Reduction shall be caused by a Set-off.

In Cases of Interpleader the Judge may allow at the Hearing the actual Costs incurred by the High Bailiff in keeping Possession of the Goods claimed, and no more.

No Increase of Fees shall be made by reason of there being more than One Plaintiff or Defendant.

SCHEDULE D.

	£
R. Brandt, Esquire, Judge of the County Court of Lancashire, holden at Manchester - - - - -	1,500
F. Bayley, Esquire, Judge of the Westminster County Court of Middlesex - - - - -	1,500
J. Pollock, Esquire, Judge of the County Court of Lancashire, holden at Liverpool - - - -	1,500

	£
J. L. Adolphus, Esquire, Judge of the Marylebone County Court of Middlesex; the Brompton County Court of Middlesex; and the County Court of Middlesex holden at Brentford	1,500
Mr. Serjeant Storks, Judge of the Shoreditch and Bow County Courts of Middlesex	1,500
J. Pitt Taylor, Esquire, Judge of the Lambeth County Court of Surrey, and the County Court of Kent holden at Greenwich and Woolwich	1,500
W. Walker, Esquire, Judge of the County Courts of Yorkshire, holden at Barnsley, Doncaster, Goole, Rotherham, Sheffield, and Thorne	1,500
T. H. Marshall, Esquire, Judge of the County Courts of Yorkshire, holden at Leeds, Dewsbury, Pontefract, and Wakefield	1,500
J. W. Harden, Esquire, Judge of the County Courts of Cheshire, holden at Altrincham, Birkenhead, Chester, Knutsford, Nantwich, Northwich, and Runcorn; and of the County Courts of Lancashire, holden at Salford and Warrington	1,500
Mr. Serjeant Clarke, Judge of the County Courts of Staffordshire, holden at Oldbury, Wallsall, and Wolverhampton; and of the County Court of Worcestershire, holden at Dudley	1,500
George Clive, Esquire, Judge of the Southwark County Court of Surrey	1,500
D. D. Heath, Esquire, Judge of the Bloomsbury County Court of Middlesex	1,500
Mr. Serjeant Jones, Judge of the Clerkenwell County Court of Middlesex	1,500
J. Stansfeld, Equire, Judge of the County Courts of Yorkshire, holden at Halifax, Holmfirth, Huddersfield, and Todmorden	1,500
Mr. Serjeant Manning, Judge of the Whitechapel County Court of Middlesex	1,500
Leigh Trafford, Esquire, Judge of the County Courts of Warwickshire, holden at Atherstone, Birmingham, and Tamworth	1,500
J. Addison, Esquire, Judge of the County Courts of Lancashire, holden at Blackburn, Burnley, Clitheroe, Colne, Garstang, Kirkham, Lancaster, Poulton, and Preston	1,500
Mr. Serjeant Dowling, Judge of the County Courts of Yorkshire, holden at Easingwold, Knaresborough, Leyburn, Northallerton, Richmond, Ripon, Selby, Stokesley, Thirsk, Wetherby, Whitby, and York	1,500

	£
F. Dinsdale, Esquire Judge of the County Court of Leicestershire, holden at Lutterworth; of the County Court of Northamptonshire, holden at Daventry; of the County Court of Oxfordshire, holden at Banbury; of the County Courts of Warwickshire, holden at Alcester, Coventry, Nuneaton, Rugby, Solihull, Southam, Stratford-on-Avon, and Warwick; and of the County Court of Worcestershire, holden at Shipston - - -	1,350
W. Furner, Esquire, Judge of the County Courts of Sussex, holden at Arundel, Brighton, Chichester, Cuckfield, East Grinstead, Hastings, Horsham, Lewes, Midhurst, Petworth, Rye, and Worthing - - - -	1,350

County Courts Acts Amendment.

A

B I L L

[AS AMENDED IN COMMITTEE AND ON CONSIDERATION OF BILL AS AMENDED]

INTITULED

An Act to amend the Acts relating to the County Courts.

(*Brought from the Lords* 16 *June* 1856.)

Ordered, by The House of Commons, *to be Printed,*
17 *July* 1856.

[Bill 256.]

Under 5 oz.

27 *June* 1856. 19 & 20 VICT.

(Ireland.)

A

BILL

TO

Constitute a Court of Appeal in Chancery, and to amend the Law relating to Appeals from the Incumbered Estates Court in Ireland.

Preamble.

WHEREAS it is expedient to constitute a Court of Appeal in Chancery, and it is also expedient to enable the said Court of Appeal to determine all Appeals from the Court of the Commissioners for the Sale and Transfer of Incumbered Estates in Ireland which may now be made to the Privy Council: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

I. This Act may be cited for all Purposes as the "Chancery Appeal Court (Ireland) Act, 1856."

Interpretation. "Chancery:" "Court:" "Chancellor."

II. In the Construction of this Act "Chancery" and "Court" shall mean the Court of Chancery in Ireland, and "Chancellor" shall mean and include the Lord Chancellor, Lord Keeper, and Lords Commissioners for the Custody of the Great Seal of Ireland.

Appointment of Judge of Court of Appeal. 14 & 15 Vict. c. 83. s. 1.

III. It shall be lawful for Her Majesty from Time to Time to nominate and appoint a fit Person who shall have exercised the Office of High Chancellor of Ireland, or who shall be One of the Judges of the Superior Courts of Common Law at Dublin, to be a Judge of the Court of Appeal in Chancery, and every Judge so nominated and appointed shall hold his Office during Her Majesty's Pleasure; or if the State of Business in the said Court, or other Circumstances, should render it expedient so to do, it shall be lawful for Her Majesty, instead of appointing such Judge of the Court of Appeal as aforesaid, from Time to Time, by Letters Patent under the Great Seal of Ireland, to appoint a fit Person, being or having been a Barrister-at-Law in Ireland of *Fifteen* Years standing at the least, to be a Judge of the Court of Appeal in Chancery, and such Judge so to be appointed by Letters Patent shall hold his Office during good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such last-mentioned Judge from his Office upon an Address of both Houses of Parliament.

Court of Appeal. 14 & 15 Vict. c. 83. s. 2.

IV. The Chancellor, together with such Judge for the Time being appointed under this Act, shall form the Court of Appeal in Chancery, and the Secretaries, Registrars, and other Officers appointed to attend the Chancellor shall attend the said Court of Appeal and the respective Judges thereof, as Circumstances shall require and the Chancellor shall direct.

Title and Rank of Judge of Appeal Court. 14 & 15 Vict. c. 83. s. 3.

V. The said Judge shall be styled "Lord Justice of the Court "of Appeal in Chancery in Ireland," and shall as such have Rank and Precedence next after the Lord Chief Baron of the Court of Exchequer in Ireland.

Oath of Office. 14 & 15 Vict. c. 83. s. 4.

VI. Every Judge so appointed shall, previous to his executing any of the Duties of his Office, take the following Oath, which the Chancellor or the Master of the Rolls for the Time being is hereby respectively authorized and required to administer:

'I , do solemnly and sincerely promise 'and swear, That I will duly and faithfully, and to the best of my 'Skill and Power, execute the Office of Lord Justice of the Court 'of Appeal in Chancery. So help me GOD.'

Appeals from Master of Rolls to Court of Appeal.

VII. From and after the First Day of *One thousand eight hundred and* all Decisions, Decrees, or Orders which shall thereafter be pronounced by the Master of the Rolls in any Suit shall be subject to Appeal to the said Court of Appeal; and it shall not be lawful to appeal to the Chancellor alone in relation to such Directions, Decrees, or Orders as aforesaid, anything herein contained, or any Law or Usage to the contrary notwithstanding; and from and after the said *First Day of* *One thousand eight hundred and* all Rehearings of Decisions, Decrees, or Orders made or to be made by the Chancellor shall be heard and determined by the said Court of Appeal: Provided, that nothing herein contained in relation to the said Court of Appeal shall apply to Appeals from Decisions, Decrees, or Orders of the Master of the Rolls pronounced antecedently to the said First Day of *One thousand eight hundred and* , or to Appeals from the Masters, but such Appeals may be preferred as if the Provisions of this Act relating to the said Court of Appeal had not passed.

Powers and Jurisdiction of Court of Appeal. 14 & 15 Vict. c. 83. s. 5.

VIII. From and after the First Day of *One thousand eight hundred and* all the Jurisdiction of the Court which is now possessed and exercised, or which but for the passing of this Act would be possessed and exercised by the Chancellor in Chancery, in relation to Appeals from the Master of the Rolls or such Rehearings as aforesaid, and all Powers, Authorities, and Duties, as well ministerial as judicial, incident to such Jurisdiction, now exercised and performed by the Chancellor, shall be then exercised and performed by the said Court of Appeal in relation to Appeals and Rehearings under this Act.

The Jurisdiction of Chancellor transferred to Court of Appeal in relation to Appeals. 14 & 15 Vict. c. 83. s. 6.

IX. Where under any Act of Parliament any Jurisdiction is vested in the Chancellor, or any Power, Authority, or Duty is to be exercised or performed by the Chancellor, and under the Directions of any Act or by any Usage such Power, Authority, or Duty is or ought to be exercised or performed by the Chancellor acting judicially in the Court, all such Jurisdiction, Power, Authority, and Duty, and the ministerial Powers and Authorities incident thereto or consequent thereupon, which are now exercised and performed by the Chancellor, shall from and after the said First Day of *One thousand eight hundred and* be had, exercised, and performed by the said Court of Appeal in relation to Appeals and Rehearings under this Act: Provided always, that, save as regards Appeals and Rehearings under this Act, the Chancellor shall and may, whilst sitting alone, have and exercise the like Jurisdictions, Powers, and Authorities as might have been exercised by the Chancellor if no Court of Appeal in Chancery had been created by and no Judge of Appeals in Chancery had been appointed under this Act.

Appeals from the Incumbered Estates Court shall be to Court of Appeal.

X. All Appeals which by section Fifty-one of the Act of the Twelfth and Thirteenth Victoria, Chapter Seventy-seven, or any Act amending or continuing the same, are authorized to be made from the

Orders of the Commissioners for the Sale and Transfer of Incumbered Estates to the Privy Council in Ireland, shall from and after the said *First Day of* *One thousand eight hundred and* be made to the Court of Appeal, and from and after the said *First Day of* *One thousand eight hundred and* it shall not be lawful to make such Appeals to the Privy Council; and the Court of Appeal shall have the same Power of hearing and determining such Appeals as is by the said Act of the Twelfth and Thirteenth Victoria, or any Act amending or continuing the same, given to the Privy Council, and the Costs of such Appeals shall be in the Discretion of the Court of Appeal.

Court of Appeal and Master of Rolls may have Assistance of Common Law Judge.
14 & 15 Vict. c. 83. s. 8.

XI. It shall be lawful for the said Court of Appeal, and for the Master of the Rolls, and for each of the said Jurisdictions, to sit, with the Assistance of any Judge of Her Majesty's Courts of Common Law in Ireland, upon the Request of the Chancellor, if any such Common Law Judge shall find it convenient to attend upon such Request; and any such Common Law Judge so attending the said Court of Appeal shall, as regards the Matters heard before the said Court, be deemed a Judge of the said Court of Appeal.

Decision of Majority of Judges of Court of Appeal to bind.
14 & 15 Vict. c. 83. s. 9.

XII. The Decision of the Majority of the Judges of the Court of Appeal, including such Common Law Judge so attending as aforesaid, shall be taken and deemed to be the Decision of the said Court; and if the Judges of the Court be equally divided in Opinion on any Matter brought before the Court by way of Appeal, or reheard, the Decree or Order appealed from or reheard shall be taken and deemed to be affirmed by the Court of Appeal.

Final Appeal to House of Lords.

XIII. All Decisions, Decrees, or Orders of the Court of Appeal, whether on Appeals in Chancery or from the said Commissioners, shall be subject to Appeal to the House of Lords in the Cases and under the Conditions in and under which the like Decisions, Decrees, or Orders of the Chancellor would have been subject to such Appeal if this Act had not been passed.

In the Absence of Judge of Appeal, Chancellor may exercise Jurisdiction.

XIV. All the Jurisdiction, Powers, and Authorities of the said Court of Appeal may, in the Absence of the said Judge of Appeal to be appointed under this Act, be exercised by the Chancellor sitting alone, or with such Common Law Judge as aforesaid at such Court of Appeal.

The Chancellor to regulate Business of Court.

XV. The Chancellor shall fix the Times at which the Judge of the said Court of Appeal appointed under this Act shall sit with the Chancellor, and generally make such Regulations as to him may seem proper for regulating the Business of the said Court of Appeal, and for the Attendance of a Registrar of the said Court of Chancery at the Sittings of the said Court of Appeal.

14 & 15 Vict. c. 83. s. 12.

Saving of Powers of Chancellor
14 & 15 Vict. c. 83. s. 13.

XVI. Nothing herein contained shall affect any of the Powers, Duties, or Authorities attached to the Office of Chancellor, or exercised by the Chancellor as Keeper of the Great Seal of Ireland (except the Powers, Authorities, and Duties which are exercised and performed by him in relation to the Appeals and Rehearings to which this Act relates), or shall affect the Powers, Authorities, and Duties of the Chancellor, in relation to Bankruptcy, or under the Laws or Statutes relating to Bankrupts and Bankruptcy, or under and by virtue of any Appointment under the Sign Manual of the Crown, as having the Custody of the Persons and Estates of Persons found idiot, lunatic, or of unsound Mind, or in relation to Letters Patent, Grants, or Writings passed or to be passed under the Great Seal of Ireland, or the Revocation of such Letters Patent, Grants, or Writings, or the Powers and Authorities of the Chancellor in right or on behalf of Her Majesty as Visitor of any Charity or other Foundation, or to the Powers of the Chancellor of Appointment to, or Removal from, or otherwise in relation to Offices in the Court or other Offices, save as herein specially provided.

If Chancellor or Master of Rolls prevented from sitting, Judge of Appeal Court may sit for him.
14 & 15 Vict. c. 83. s. 14.

XVII. And in case the Chancellor or Master of the Rolls shall be prevented by Illness or otherwise from sitting at any Time when, according to ordinary Course, his Court would be open, the Chancellor may, by Writing under his Hand from Time to Time, as often as Occasion may require, authorize the Judge of the said Court of Appeal to sit for the hearing and determining of Causes and Matters in lieu of the Chancellor or Master of the Rolls; and the Judge sitting under such Authority as aforesaid may, for the Purpose of disposing of any Cause or Matter which has been partly heard by him, continue such his Sittings, notwithstanding the Chancellor or Master of the Rolls in whose Stead he has partly heard such Cause or Matter may also be sitting for the Hearing of other Causes or Matters; and all Decrees and Orders made by such Judge in pursuance of such Authority shall be of the same Effect and Validity, and subject to Revision and Appeal in the same Manner in all respects, as if made by the Chancellor or Master of the Rolls, as the Case may be.

Salary of Judge of Appeal Court.

XVIII. It shall be lawful for Her Majesty to direct that there shall be paid to the Judge of Appeal to be appointed under this Act a Salary not exceeding *One thousand five hundred Pounds*, in case such Judge shall be in the Receipt of any Salary or Pension as having resigned or been removed from the Office of Chancellor of Ireland, or shall be One of the Judges of the Superior Courts of Common Law at Dublin, and over and above and without Prejudice to any such Salary or Pension, or the Salary or Pension of such Judge as One of the Common Law Judges aforesaid; and in case the Person to be appointed Judge of the Court of Appeal under this Act shall not be in the Receipt of any Pension as Ex-Chancellor, or shall not be such Common Law Judge as aforesaid, such Person, on being appointed by Letters Patent under this Act, shall be entitled to and shall be paid the net yearly Salary of *Four thousand Pounds*, which Salaries of *One thousand five hundred Pounds* or *Four thousand Pounds*, as the Case may be, *shall be issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and* shall be free from all Deductions, Abatements, and Taxes, except the Income Tax, and shall be paid quarterly on the Day of the Day of the Day of and the Day of in every Year, by equal Portions, and the first of such Payments, or a proportionate Part thereof to be computed from the Time of the Appointment of such Judge of Appeal, shall be made on such of the said Days of Payment as shall first happen after the Date of such Appointment; and upon the Resignation, Death, or Removal from Office of any such Judge of Appeal, such Judge of Appeal, or his Executors or Administrators, shall be paid such proportionate Part of his Salary as shall have accrued from the Time of the Commencement or from the last quarterly Day of Payment thereof to the Time of such Resignation, Death, or Removal from Office.

Retiring Pension to Vice-Chancellor.

XIX. Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, may grant unto any Person executing the Office of Judge of Appeal, in pursuance of this Act, who shall not be in Receipt of any Pension as Ex-Chancellor, or shall not be such Common Law Judge as aforesaid, an Annuity not exceeding *Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence*, to commence immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said Office of Judge of Appeal, and to continue from thenceforth during the natural Life of the Person to whom the same shall be granted; and such Annuity shall be *issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland;* and such Annuity shall be paid quarterly, free from all Taxes and Deductions whatsoever, except Income Tax, by equal Portions, on the same quarterly Days as the Salary of such Judge of Appeal was payable; and the First quarterly Payment, or a proportionate Part thereof, to be computed from the Time of the Resignation of the said Office, shall be made on each of the same Days as shall happen next after the Resignation of the said Office; and the Executors and Administrators of the Person to whom the same Annuity shall be granted as aforesaid shall be paid such proportionate Part of the said Annuity as shall accrue from the Commencement or the last quarterly Payment thereof, as the Case may be, to the Day of his Death; provided, that it shall be lawful for Her Majesty, in and by such Letters Patent, to limit the Duration of Payment of such Annuity or any Part thereof to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall together not exceed in the whole the said Sum of *Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence;* provided also, that no Annuity granted to any Person having executed the Office of Judge of Appeal under this Act shall be valid unless such Person shall have continued in the said Office, or in the said Office and the Office of a Judge in One or more of Her Majesty's Superior Courts, or Judge of Her Majesty's Court of Prerogative in Ireland, or of Master in Ordinary of the Court for the Period of *Fifteen* Years, or shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant.

Increased Powers of making General Orders expedient.

Repeal of 14 & 15 Vict. c. 15.

XX. Whereas it is expedient that the Court should have increased Powers of making General Orders to reform and regulate its Procedure and Practice, with a view to Economy, Simplicity, and Expedition, and that the existing Law as to the Mode of making General Orders of the Court should be amended: Be it therefore enacted, that the Act of the Fourteenth and Fifteenth Victoria, Chapter Fifteen, intituled "An Act to amend the Court of Chancery, Ireland, Regulation Act, 1850," is hereby repealed, save as to anything done under the same.

Existing Orders to continue in force.

XXI. All General Orders of the Court or Masters in force at the passing of this Act shall continue in force unless altered by or inconsistent with the General Orders to be made under this Act.

General Orders how to be made.

XXII. The Power of making, rescinding, and varying General Orders in relation to all Proceedings in the Court, and to all Business to be transacted by the Court and the Judges and Officers of the Court, shall be deemed to be a Power at all Times appertaining and incidental to the Jurisdiction of the Court, and such Power shall be exerciseable by the Chancellor, by and with the Advice and Assistance of the Master of the Rolls and the Judge of Appeal, or of either of them, anything in any Act or Acts prescribing a different Method of making such General Orders to the contrary notwithstanding, and shall be exerciseable as well in relation to all Matters now falling within the Jurisdiction of the Court as to all Matters which may hereafter be brought within such Jurisdiction.

Court empowered to make General Orders for certain Purposes.

XXIII. In addition and without Prejudice to the Power which the Court now has of making General Orders in relation to any Matters within its Jurisdiction, the Court may, in manner aforesaid, make, rescind, and vary General Orders for regulating the Times and Form and Mode of Procedure, the Division and Distribution of Business, the Formalities to be observed upon Transfers and Sales of Stock and Payments and Investments of Cash, the Lodgment of Deeds and Papers, the Substitution of or dispensing with Service of Notices or Process upon any Person, the Examination of Witnesses and Parties, the Examination, Cross-examination, and Re-examination of Persons making Affidavits to be used in any Cause or Matter, for determining the necessary Parties to any Cause or Matter, and for regulating the Employment of Conveyancing or other Counsel, Valuators, Surveyors, Engineers, Accountants, Merchants, Actuaries, and other skilled Persons, and the Costs, Fees, and Allowances to be paid or allowed to Solicitors or other Persons, and for ensuring the Despatch of Business by requiring Returns of the State thereof from any Judge or Officer or otherwise, and for transferring the Conduct of Proceedings, and for allowing Proceedings to be taken or Acts done, notwithstanding the proper Time for taking or doing the same may have elapsed, and for enlarging the Time for any such Act, and for supplying Omissions or correcting Errors in Proceedings, and for regulating the Security to be given by Receivers, or altering the existing Mode of giving such Security, and substituting any new Mode, either generally or as regards particular Cases, and for regulating the Appointment and Remuneration of Receivers, and the Management of Estates under Receivers, and in relation to any other Matter or Thing whatsoever incident to the Business of the Court, whether of the Kind herein-before specified or not; and such Orders shall take effect at such Time as may be therein specified, or, in default of such Specification, from the Time of the making thereof.

General Orders to be laid before Parliament.

XXIV. Such General Orders shall be laid before Parliament within the Time and subject to the Provisions in all respects in that Behalf specified and contained in the "Court of Chancery, Ireland, Regulation Act, 1850," in relation to the General Orders to be made by the Chancellor, with the Assistance of the Master of the Rolls, under that Act.

Forms of Proceeding may be settled.

XXV. The Chancellor may, with the Advice and Assistance of the Master of the Rolls and the Judge of Appeal, or of either of them, from

Time to Time frame and cause to be printed and circulated Forms of Proceedings and Documents in relation to the Business of the Court, and may direct any Proceedings or Documents to be printed and made available for the Use of all Parties interested.

XXVI. So much of Section Sixteen of the "Court of Chancery, Ireland, Regulation Act, 1850," as provides that the Master, in Cases within the said Section, shall not make Orders for the Distribution or Payment of any Share of Money, shall from the *First Day of One thousand eight hundred and fifty-* be repealed, and from and after the said *First Day of One thousand eight hundred and fifty-* the Masters shall in all Cases to which the said Section applies have and exercise the Jurisdiction by the said Section conferred upon them, without any such Restriction as aforesaid.

Masters to make Money Orders in 16th Section Petitions.

XXVII. In case the Account now standing to the Credit of the Accountant General of the Court in the Books of the Bank of Ireland, termed the Suitors Fee Fund Account, should be inadequate to the Payment of the Charges now chargeable thereon, the Amount of such Charges beyond what can be so satisfied thereout shall be charged and chargeable and paid and payable upon and out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, by way of Advance in aid of the said Suitors Fee Fund Account: Provided always, that the said Sums which shall be so advanced out of the Consolidated Fund in aid of the Suitors Fee Fund Account shall become and remain a Charge thereon in favour of the Crown, so far as the same will extend after Payment of prior Charges, and the same shall be repaid to the proper Officers of Her Majesty's Exchequer, to be carried to the Credit of the Consolidated Fund, at such Times and in such Manner as the Lord High Treasurer or the Commissioners of Her Majesty's Treasury shall order and direct.

Deficiency of Suitors Fee Fund to be supplied from Consolidated Fund. 13 & 14 Vict. c. 51. ss. 26, 27.

Court of Appeal in Chancery (Ireland).

A

BILL

To constitute a Court of Appeal in Chancery, and to amend the Law relating to Appeals from the Incumbered Estates Court in Ireland.

(*Prepared and brought in by*
Mr. Attorney General for Ireland and
Mr. Horsman.)

Ordered, by The House of Commons, *to be Printed,*
27 *June* 1856.

[Bill 210.]

Under 2 oz.

10 *July* 1856. 19 & 20 Vict.

(Ireland.)

A

BILL

[AS AMENDED IN COMMITTEE AND ON CONSIDERATION OF BILL AS AMENDED]

TO

Constitute a Court of Appeal in Chancery, and to amend the Law relating to Appeals from the Incumbered Estates Court in Ireland.

[Note.—*The Clauses marked* A. *and* B. *were added in Committee.*]

Preamble.

WHEREAS it is expedient to constitute a Court of Appeal in Chancery, and it is also expedient to enable the said Court of Appeal to determine all Appeals from the Court of the Commissioners for the Sale and Transfer of Incumbered Estates in Ireland which may now be made to the Privy Council: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

I. This Act may be cited for all Purposes as the "Chancery Appeal Court (Ireland) Act, 1856."

Interpretation.
"Chancery:"
"Court:"
"Chancellor:"
"Suit."

II. In the Construction of this Act "Chancery" and "Court" shall mean the Court of Chancery in Ireland, and "Chancellor" shall mean and include the Lord Chancellor, Lord Keeper, and Lords Commissioners for the Custody of the Great Seal of Ireland; "Suit" shall include Cause, Cause Petition, and Petition Matter.

Appointment of Judge of Court of Appeal. 14 & 15 Vict. c. 83. s. 1.

III. It shall be lawful for Her Majesty from Time to Time to nominate and appoint a fit Person who shall have exercised the Office of High Chancellor of Ireland, or who shall have practised at the Bar for not less than Fifteen Years, to be a Judge of the Court of Appeal in Chancery, and every Judge so nominated and appointed shall hold his Office during good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such last-mentioned Judge from his Office upon an Address of both Houses of Parliament.

Court of Appeal. 14 & 15 Vict. c. 83. s. 2.

IV. The Chancellor, together with such Judge for the Time being appointed under this Act, shall form the Court of Appeal in Chancery, and the Secretaries, Registrars, and other Officers appointed to attend the Chancellor shall attend the said Court of Appeal and the respective Judges thereof, as Circumstances shall require and the Chancellor shall direct.

Title and Rank of Judge of Appeal Court. 14 & 15 Vict. c. 83. s. 3.

V. The said Judge shall be styled "Lord Justice of the Court "of Appeal in Chancery in Ireland," and shall as such have Rank and Precedence next after the Lord Chief Baron of the Court of Exchequer in Ireland; provided, however, that if the said Judge shall have exercised the Office of High Chancellor of Ireland he shall rank next after the Chancellor for the Time being.

Oath of Office. 14 & 15 Vict. c. 83. s. 4.

VI. Every Judge so appointed shall, previous to his executing any of the Duties of his Office, take the following Oath, which the Chancellor or the Master of the Rolls for the Time being is hereby respectively authorized and required to administer:

'I , do solemnly and sincerely promise 'and swear, That I will duly and faithfully, and to the best of my 'Skill and Power, execute the Office of Lord Justice of the Court 'of Appeal in Chancery. So help me GOD.'

Appeals from Master of Rolls to Court of Appeal.

VII. From and after the First Day of January One thousand eight hundred and fifty-seven all Decisions, Decrees, or Orders which shall thereafter be pronounced by the Master of the Rolls in any Suit shall be subject to Appeal to the said Court of Appeal; and it shall not be lawful to appeal to the Chancellor alone in relation to such Decisions, Decrees, or Orders as aforesaid, anything herein contained, or any Law or Usage to the contrary notwithstanding; and from and after the said First Day of January One thousand eight hundred and fifty-seven all Rehearings of Decisions, Decrees, or Orders made or to be made by the Chancellor shall be heard and determined by the said Court of Appeal: Provided, that nothing herein contained in relation to the said Court of Appeal shall apply to

Appeals from Decisions, Decrees, or Orders of the Master of the Rolls pronounced antecedently to the said First Day of January One thousand eight hundred and fifty-seven, or to Appeals from the Masters, but such Appeals may be preferred as if the Provisions of this Act relating to the said Court of Appeal had not passed.

Powers and Jurisdiction of Court of Appeal. 14 & 15 Vict. c. 83. s. 5.

VIII. From and after the First Day of January One thousand eight hundred and fifty-seven all the Jurisdiction of the Court which is now possessed and exercised, or which but for the passing of this Act would be possessed and exercised by the Chancellor in Chancery, in relation to Appeals from the Master of the Rolls or such Rehearings as aforesaid, and all Powers, Authorities, and Duties, as well ministerial as judicial, incident to such Jurisdiction, now exercised and performed by the Chancellor, shall be then exercised and performed by the said Court of Appeal in relation to Appeals and Rehearings under this Act.

The Jurisdiction of Chancellor transferred to Court of Appeal in relation to Appeals. 14 & 15 Vict. c. 83. s. 6.

IX. Where under any Act of Parliament any Jurisdiction is vested in the Chancellor, or any Power, Authority, or Duty is to be exercised or performed by the Chancellor, and under the Directions of any Act or by any Usage such Power, Authority, or Duty is or ought to be exercised or performed by the Chancellor acting judicially in the Court, all Orders made or to be made by the Chancellor in exercise of such Jurisdiction, Power, Authority, or Duty shall be subject to Appeal, and all such Jurisdiction, Power, Authority, and Duty, and the ministerial Powers and Authorities incident thereto or consequent thereupon, which are now exercised and performed by the Chancellor, shall from and after the said First Day of January One thousand eight hundred and fifty-seven be had, exercised, and performed by the said Court of Appeal in relation to Appeals and Rehearings under this Act: Provided always, that, save as regards Appeals and Rehearings under this Act, the Chancellor shall and may, whilst sitting alone, have and exercise the like Jurisdictions, Powers, and Authorities as might have been exercised by the Chancellor if no Court of Appeal in Chancery had been created by and no Judge of Appeals in Chancery had been appointed under this Act.

Appeals from the Incumbered Estates Court shall be to Court of Appeal.

X. All Appeals which by Section Fifty-one of the Act of the Twelfth and Thirteenth Victoria, Chapter Seventy-seven, or any Act amending or continuing the same, are authorized to be made from the Orders of the Commissioners or Commissioner for the Sale and Transfer of Incumbered Estates to the Privy Council in Ireland, shall from and after the said First Day of January One thousand eight hundred and fifty-seven be made to the Court of Appeal, and from and after the said First Day of January One thousand eight hundred and fifty-seven it shall not be lawful to make such Appeals to the Privy Council; and the Court of Appeal in Chancery shall have the same Power of hearing and determining such Appeals as is by the said Act of the Twelfth and Thirteenth Victoria, or any Act amending or continuing the same, given to the Privy Council, and the Costs of such Appeals shall be in the Discretion of the Court of Appeal.

CLAUSE A.
Appeals to be brought within Three Months, unless special Leave obtained.

XI. Appeals and Rehearings under this Act to the said Court of Appeal may be brought without Leave of the Court at any Time within the Period of Three Months from the Time when the Decision, Decree, or Order complained of was made or took place, anything in Section Thirty of the Court of Chancery (Ireland) Regulation Act, 1850, to the contrary notwithstanding, but that after the Expiration of the Period aforesaid no such Appeal or Rehearing shall be brought unless with the special Leave of the Court.

Court of Appeal and Master of Rolls may have Assistance of Common Law Judge.
14 & 15 Vict. c. 83. s. 8.

XII. It shall be lawful for the said Court of Appeal, and for the Master of the Rolls, and for each of the said Jurisdictions, to sit, with the Assistance of any Judge of Her Majesty's Courts of Common Law in Ireland, upon the Request of the Chancellor, if any such Common Law Judge shall find it convenient to attend upon such Request; and any such Common Law Judge so attending the said Court of Appeal shall, as regards the Matters heard before the said Court, be deemed a Judge of the said Court of Appeal.

Decision of Majority of Judges of Court of Appeal to bind.
14 & 15 Vict. c. 83. s. 9.

XIII. The Decision of the Majority of the Judges of the Court of Appeal, including such Judge so attending as aforesaid, shall be taken and deemed to be the Decision of the said Court; and if the Judges of the Court be equally divided in Opinion on any Matter brought before the Court by way of Appeal, or reheard, the Decree or Order appealed from or reheard shall be taken and deemed to be affirmed by the Court of Appeal.

Final Appeal to House of Lords.

XIV. All Decisions, Decrees, or Orders of the Court of Appeal, whether on Appeals in Chancery or from the said Commissioners, shall be subject to Appeal to the House of Lords in the Cases and under the Conditions in and under which the like Decisions, Decrees, or Orders of the Chancellor would have been subject to such Appeal if this Act had not been passed.

In the Absence of Judge of Appeal,

XV. All the Jurisdiction, Powers, and Authorities of the said Court of Appeal may, in the unavoidable Absence of such Judge of Appeal to be appointed under this Act, be exercised by the Chancellor sitting alone, or with such Common Law Judge as aforesaid at such Court of Appeal.

Chancellor may exercise Jurisdiction.

XVI. The Chancellor shall fix the Times at which the Judge of the said Court of Appeal appointed under this Act shall sit with the Chancellor, and generally make such Regulations as to him may seem proper for regulating the Business of the said Court of Appeal, and for the Attendance of a Registrar of the said Court of Chancery at the Sittings of the said Court of Appeal.

The Chancellor to regulate Business of Court. 14 & 15 Vict. c. 83. s. 12.

XVII. Nothing herein contained shall affect any of the Powers, Duties, or Authorities attached to the Office of Chancellor, or exercised by the Chancellor as Keeper of the Great Seal of Ireland (except the Powers, Authorities, and Duties which are exercised and performed by him in relation to the Appeals and Rehearings to which this Act relates), or shall create any Right of Appeal, or affect the Powers, Authorities, and Duties of the Chancellor at the Common Law or Petty Bag Side of the Court, or in relation to Bankruptcy, or under the Laws or Statutes relating to Bankrupts and Bankruptcy, or under and by virtue of any Appointment under the Sign Manual of the Crown, as having the Custody of the Persons and Estates of Persons found idiot, lunatic, or of unsound Mind, or in relation to Letters Patent, Grants, or Writings passed or to be passed under the Great Seal of Ireland, or the Revocation of such Letters Patent, Grants, or Writings, or the Powers and Authorities of the Chancellor in right or on behalf of Her Majesty as Visitor of any Charity or other Foundation, or to the Powers of the Chancellor of Appointment to, or Removal from, or otherwise in relation to Offices in the Court or other Offices, save as herein specially provided.

Saving of Powers of Chancellor. 14 & 15 Vict. c. 83. s. 13.

XVIII. And in case the Chancellor or Master of the Rolls shall be prevented by Illness or otherwise from sitting at any Time when, according to ordinary Course, his Court would be open, the Chancellor may, by Writing under his Hand from Time to Time, as often as Occasion may require, authorize the Judge of the said Court of Appeal to sit for the hearing and determining of Causes and Matters in lieu of the Chancellor or Master of the Rolls; and the Judge sitting under such Authority as aforesaid may, for the Purpose of disposing of any Cause or Matter which has been partly heard by him, continue such his Sittings, notwithstanding the Chancellor or Master of the Rolls in whose Stead he has partly heard such Cause or Matter may also be sitting for the Hearing of other Causes or Matters; and all Decrees and Orders made by such Judge in pursuance of such Authority shall be of the same Effect and Validity, and subject to Revision and Appeal in the same Manner in all respects, as if

If Chancellor or Master of Rolls prevented from sitting, Judge of Appeal Court may sit for him. 14 & 15 Vict. c. 83. s. 14.

if made by the Chancellor or Master of the Rolls, as the Case may be.

Salary of Judge of Appeal Court.

XIX. It shall be lawful for Her Majesty to direct that there shall be paid to the Judge of Appeal to be appointed under this Act a Salary not exceeding One thousand five hundred Pounds, in case such Judge shall be in the Receipt of any Salary or Pension as exercising or having exercised a judicial Office in any of the Superior Courts of Law, Equity, or in the Court of Prerogative, and over and above and without Prejudice to any such Salary or Pension; and in case the Person to be appointed Judge of the Court of Appeal under this Act shall not be in the Receipt of any such Salary or Pension, such Person, on being appointed by Letters Patent under this Act, shall be entitled to and shall be paid the net yearly Salary of Four thousand Pounds, which Salaries of One thousand five hundred Pounds or Four thousand Pounds, as the Case may be, shall be issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and shall be free from all Deductions, Abatements, and Taxes, except the Income Tax, and shall be paid quarterly on the usual quarterly Days, by equal Portions, and the first of such Payments, or a proportionate Part thereof to be computed from the Time of the Appointment of such Judge of Appeal, shall be made on such of the said Days, of Payment as shall first happen after the Date of such Appointment; and upon the Resignation, Death, or Removal from Office of any such Judge of Appeal, such Judge of Appeal, or his Executors or Administrators, shall be paid such proportionate Part of his Salary as shall have accrued from the Time of the Commencement or from the last quarterly Day of Payment thereof to the Time of such Resignation, Death, or Removal from Office.

Retiring Pension to Vice-Chancellor.

XX. Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, may grant unto any Person executing the Office of Judge of Appeal, in pursuance of this Act, who shall not be in Receipt of any such Pension, an Annuity not exceeding Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence, to commence immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said Office of Judge of Appeal, and to continue from thenceforth during the natural Life of the Person to whom the same shall be granted; and such Annuity shall be issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland; and such Annuity shall be paid quarterly, free from all Taxes and Deductions whatsoever, except Income Tax, by equal Portions, on the same quarterly Days as the Salary of such Judge of Appeal was payable; and the First quarterly Payment, or a proportionate Part thereof, to be computed from the Time of the Resignation of the said Office, shall be made on each of the same Days as shall happen next after the Resignation of the said Office; and the Executors and Administrators of the Person to whom the same Annuity shall be granted as aforesaid shall be paid such proportionate Part of the said Annuity as shall accrue from the Commencement or the last quarterly Payment thereof, as the Case may be, to the Day of his Death; provided, that it shall be lawful for Her Majesty, in and by such Letters Patent, to limit the Duration of Payment of such Annuity or any Part thereof to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall together not exceed in the whole the said Sum of Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence; provided also, that no Annuity granted to any Person having executed the Office of Judge of Appeal under this Act shall be valid unless such Person shall have continued in the said Office, or in other Judicial Office as aforesaid, for the Period of Fifteen Years, or shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant.

Increased Powers of making General Orders expedient.

Repeal of 14 & 15 Vict. c. 15.

XXI. Whereas it is expedient that the Court should have increased Powers of making General Orders to reform and regulate its Procedure and Practice, with a view to Economy, Simplicity, and Expedition, and that the existing Law as to the Mode of making General Orders of the Court should be amended: Be it therefore enacted, That the Act of the Fourteenth and Fifteenth Victoria, Chapter Fifteen, intituled "An Act to amend the Court of Chancery, Ireland, Regulation Act, 1850," is hereby repealed, save as to anything done or Proceeding commenced under the same.

Existing Orders to continue in force.

XXII. All General Orders of the Court or Masters in force at the passing of this Act shall continue in force unless altered by or inconsistent with the General Orders to be made under this Act.

General Orders how to be made.

XXIII. The Power of making, rescinding, and varying General Orders in relation to all Proceedings in the Court, and to all Business to be transacted by the Court and the Judges and Officers of the Court, shall be deemed to be a Power at all Times appertaining and incidental to the Jurisdiction of the Court, and such Power shall be exerciseable by the Chancellor, by and with the Advice and Assistance of the Master of the Rolls and the Judge of Appeal, or of either of them, anything in any Act or Acts prescribing a different Method of making such General Orders to the contrary notwithstanding, and shall be exerciseable as well in relation to all Matters now falling within the Jurisdiction of the Court as to all Matters which may hereafter be brought within such Jurisdiction.

CLAUSE B. Court empowered to make General Orders for certain Purposes.

XXIV. In addition and without Prejudice to the Power which the Court now has of making General Orders in relation to any Matters within its Jurisdiction, the Court may, in manner aforesaid, make, rescind, and vary General Orders for regulating the Times and Form and Mode of Procedure, the Division and Distribution of Business, the Formalities to be observed upon Transfers and Sales of Stock and Payments and Investments of Cash, the Lodgment of Deeds and Papers, the Substitution of or dispensing with Service of Notices or Process upon any Person, the Examination of Witnesses and Parties, the Examination, Cross-examination, and Re-examination of Persons making Affidavits to be used in any Cause or Matter, for determining the necessary Parties to any Cause or Matter, and for regulating the Employment of Conveyancing or other Counsel, Valuators, Surveyors, Engineers, Accountants, Merchants, Actuaries, and other skilled Persons, and the Costs, Fees, and Allowances to be paid or allowed to Solicitors or other Persons, and for ensuring the Despatch of Business by requiring Returns of the State thereof from any Judge or Officer or otherwise, and for transferring the Conduct of Proceedings, and for allowing Proceedings to be taken or Acts done, notwithstanding the proper Time for taking or doing the same may have elapsed, and for enlarging the Time for any such Act, and for supplying Omissions or correcting Errors in Proceedings, and for regulating the Security to be given by Receivers, or altering the existing Mode of giving such Security, and substituting any new Mode, either generally or as regards particular Cases, and for regulating the Appointment and Remuneration of Receivers, and the Management of Estates under Receivers, and in relation to any other Matter or Thing whatsoever incident to the Business of the Court, whether of the Kind herein-before specified or not; and such Orders shall take effect at such Time as may be therein specified, or, in default of such Specification, from the Time of the making thereof.

General Orders to be laid before Parliament.

XXV. Such General Orders shall be laid before Parliament within the Time and subject to the Provisions in all respects in that Behalf specified and contained in the "Court of Chancery, Ireland, Regulation Act, 1850," in relation to the General Orders to be made by the Chancellor, with the Assistance of the Master of the Rolls, under that Act.

Forms of Proceeding may be settled.

XXVI. The Chancellor may, with the Advice and Assistance of the Master of the Rolls and the Judge of Appeal, or of either of them, from

Time to Time frame and cause to be printed and circulated Forms of Proceedings and Documents in relation to the Business of the Court, and may direct any Proceedings or Documents to be printed and made available for the Use of all Parties interested.

Masters to make Money Orders in 16th Section Petitions.

XXVII. So much of Section Sixteen of the "Court of Chancery, Ireland, Regulation Act, 1850," as provides that the Master, in Cases within the said Section, shall not make Orders for the Distribution or Payment of any Share of Money, shall from the First Day of January One thousand eight hundred and fifty-seven be repealed, and from and after the said First Day of January One thousand eight hundred and fifty-seven the Masters shall in all Cases to which the said Section applies have and exercise the Jurisdiction by the said Section conferred upon them, without any such Restriction as aforesaid.

Deficiency of Suitors Fee Fund to be supplied from Consolidated Fund. 13 & 14 Vict. c. 51. ss. 26, 27.

XXVIII. In case the Account now standing to the Credit of the Accountant General of the Court in the Books of the Bank of Ireland, termed the Suitors Fee Fund Account, should be inadequate to the Payment of the Charges now chargeable thereon, the Amount of such Charges beyond what can be so satisfied thereout shall be charged and chargeable and paid and payable upon and out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, by way of Advance in aid of the said Suitors Fee Fund Account: Provided always, that the said Sums which shall be so advanced out of the Consolidated Fund in aid of the Suitors Fee Fund Account shall become and remain a Charge thereon in favour of the Crown, so far as the same will extend after Payment of prior Charges, and the same shall be repaid to the proper Officers of Her Majesty's Exchequer, to be carried to the Credit of the Consolidated Fund, at such Times and in such Manner as the Lord High Treasurer or the Commissioners of Her Majesty's Treasury shall order and direct.

Court of Appeal in Chancery (Ireland).

A

BILL

[AS AMENDED IN COMMITTEE, AND
ON CONSIDERATION OF BILL AS AMENDED]

To constitute a Court of Appeal in Chancery, and to amend the Law relating to Appeals from the Incumbered Estates Court in Ireland.

(Prepared and brought in by
Mr. Attorney General for Ireland and
Mr. Horsman.)

Ordered, by The House of Commons, *to be Printed,*
10 *July* 1856.

[Bill 238.]

Under 2 oz.

Court of Chancery (Ireland) Bill.

INDEX.

		Sections.
Short Title		1
Interpretation		2
Commencement of Act		3
General Orders		4 and 5
Division of Act		6
Part	I. Appointment of Vice-Chancellors, &c., &c.	7 to 31
,,	II. Masters Abolition	32 to 49
,,	III. Court of Appeal	50 to 64
,,	IV. Procedure and Practice	65 to 123
,,	V. Sale, Partition, and Exchange of Real Estates	124 to 148
,,	VI. Sales of Settled Estates	149 to 167
,,	VII. Abolition of Incumbered Estates Court	168 to 183
,,	VIII. Fees and Stamps	184 to 197
,,	IX. Miscellaneous	198 to end.

4 *February* 1856. 19 Vict.

(Ireland.)

A

BILL

TO

Alter the Constitution, Procedure, and Practice, increase the Powers of and diminish the Expense of Proceeding in the Court of Chancery in Ireland, and to discontinue the Incumbered Estates Court.

Preamble.

WHEREAS Her Majesty, by a Commission under the Great Seal of the United Kingdom, was pleased to appoint certain Commissioners to inquire into the State of Business of the Incumbered Estates Court in Ireland, and to consider and report whether it would be desirable that the said Court should be continued, either permanently or for a limited Period, or whether it should be annexed to, or its Powers transferred to, the Court of Chancery in Ireland: And whereas the said Commissioners have since made their Report to Her Majesty, and have recommended that the Incumbered Estates Court should be discontinued, and its Powers vested in and its Business transferred to the said Court of Chancery, and that the Power of conferring a Parliamentary Title upon a Transfer of Land under judicial Sales should be given to the said Court of Chancery, and that certain Alterations should be made in the Constitution, Procedure, and Practice of the said Court of Chancery, and that the

Stamps and Fees payable upon Proceedings therein should be abolished or diminished: And whereas it is expedient that these and certain other Recommendations of the said Commissioners, with certain Modifications thereof, should be carried into effect, as herein-after provided: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

I. This Act may be cited for all Purposes as the "Chancery (Ireland) Act, 1856."

Interpretation.

II. In the Construction and for the Purposes of this Act (if not inconsistent with the Context or Subject Matter) the following Terms shall have the respective Meanings herein-after assigned to them; (that is to say,)

"Lord Lieutenant:"

"Lord Lieutenant" shall include the Chief Governor or Chief Governors of Ireland for the Time being:

"Chancery:" "Court:"

"Chancery" and "Court" shall mean the Court of Chancery in Ireland:

"Chancellor:"

"Chancellor" shall mean and include the Lord Chancellor, Lord Keeper and Lords Commissioners for the Custody of the Great Seal of Ireland:

"Owner:"

"Owner," as applied to any Estate, shall include any Person entitled absolutely to such Estate, or to the Equity of Redemption in any Estate, or to the Estate subject to any Incumbrance, or to a Trust for the Payment of any Incumbrance, and any Feoffees or Trustees for charitable or other Purposes:

And the Word "Owner," as applied to any Lease, shall include any Person entitled in possession to the Land or any undivided Share or Portion of the Land comprised in such Lease for the whole Estate created or agreed to be created by such Lease; and any Person entitled in possession for such whole Estate to the Equity of Redemption in such Lease, or to such Lease subject to any Incumbrance, or a Trust for the Payment of any Incumbrance:

"Person:"

And the Word "Person" and the Word "Owner" shall extend to a Body Politic or Corporate as well as to an Individual:

"Possession:"

"Possession" shall include Receipt of the Rents and Profits:

"Land:"

"Land" shall extend to Manors, Advowsons, Rectories, Messuages, Lands, Tenements, Rents, Rents Service, Rents-charge, and Hereditaments of any Tenure, whether subject to any Fee-farm or other perpetual Rent, with or without Condition of Re-entry for securing the same or otherwise, and whether corporeal or incorporeal, or any undivided Share thereof:

"Estate:"

"Estate" shall mean an Estate in Land other than a Lease, and shall extend to an Estate in Equity as well as at Law, and to an Equity of Redemption, and to the Benefit of any Covenant or Contract for or Right of Renewal:

"Lease:"

"Lease" shall include an Agreement for a Lease, and the Estate or Interest created or agreed to be created by such Lease or Agreement, and any derivative Estate in a Lease:

"Lease in Perpetuity:"

"Lease in Perpetuity" shall mean any Lease or Under-lease which under the Provisions of "The Renewable Leasehold Conversion Act," or any other Act or Acts, shall operate as or shall be liable to be converted into a Tenure in Fee, or a perpetual Estate and Interest:

"Incumbrance:"

"Incumbrance" shall mean any legal or equitable Mortgage in Fee or for any less Estate, and also any Money secured by a Trust, or by Judgment, Decree, or Order of any Superior Court of Law or Equity duly registered, and also any Legacy, Portion, Lien, or other Charge whereby a gross Sum of Money is secured to be paid on an Event or at a Time certain, and also any annual or periodical Charge which, by the Instrument creating the same, or by any other Instrument, is made re-purchaseable on Payment of a gross Sum of Money, and also any Arrears remaining unpaid of any annual or periodical Charge for Payment, of which Arrear a Sale of any Land charged therewith might be decreed:

"Incumbrancer:"

"Incumbrancer" shall mean any Person entitled to such Incumbrance, or entitled to require the Payment or Discharge thereof:

"Settlement:"

"Settlement" shall signify any Act of Parliament, Deed, Agreement, Copy of Court Roll, Will, or other Instrument, or any Number of such Instruments, under or by virtue of which any Hereditaments of any Tenure stand limited to or in trust for any Persons by way of Succession, including any such Instruments affecting the Estates of any One or more of such Persons exclusively; and the Term "Settled Estates" as used in this Act shall signify all Hereditaments of any Tenure which are the Subject of a Settlement:

"Settled Estates:"

"General Orders:"

"General Orders" shall mean General Rules and Orders of the Court, to be made by the Lord Chancellor, with the Advice and Assistance of the Master of the Rolls and Vice-Chancellors, as by this Act directed:

"Conveyance:"

"Conveyance" shall include Assignment:

"Convey:"

"Convey" shall include Assign:

"Suit:"

"Suit" shall include Cause, Matter, and other Proceeding:

"Plaintiff:"

"Plaintiff" shall include Petitioner:

"Defendant:"

"Defendant" shall include Respondent:

"Tenant for Life."

"Tenant for Life" shall include Tenant in Tail after Possibility of Issue extinct.

Commencement of Act.

III. This Act, except Part I., and except where otherwise provided, shall commence and take effect from and after the *First Day of Michaelmas Term One thousand eight hundred and fifty-six*, provided that it shall be lawful to make and issue any such General Rules and Orders as by this Act provided at any Time after the passing of this Act, so as the same be not made to take effect before the Time appointed for the Commencement of this Act; and Part I. shall commence and take effect from the passing of this Act.

Power to make General Orders. 15 & 16 Vict. c. 86. ss. 63, 64.

IV. The Chancellor, with the Advice and Assistance of the Master of the Rolls and the Vice-Chancellors, or of any Two of them, shall from Time to Time make General Rules and Orders for carrying the several Purposes of this Act into effect, and for regulating the Times and Form and Mode of Procedure, the Division and Distribution of Business, and generally the Procedure and Practice of the said Court in respect of the several Matters to which this Act refers; and such Rules and Orders may from Time to Time be rescinded or altered by the like Authority; and all such Rules and Orders shall take effect as General Orders of the said Court.

General Orders to be laid before Parliament.

V. All such General Rules and Orders shall, immediately after the making and issuing thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or if Parliament be not then sitting, within *Five* Days after the next Meeting thereof: Provided always, that if either of the Houses of Parliament shall, by any Resolution passed within *Thirty-six* Days after such Rules or Orders have been laid before such Houses of Parliament, resolve that the whole or any Part of such Rules or Orders ought not to continue in force, in such Case, the whole or such Part thereof as shall be so included in such Resolution, shall from and after such Resolution cease to be binding.

Division of Act.

VI. This Act shall consist of Nine Parts:

Part I. shall relate to the Appointment of Vice-Chancellors:

Part II. to the Abolition of the Office of Master in Ordinary of the Court of Chancery:

Part III. to the Court of Appeal in Chancery:

Part IV. to Procedure and Practice:

Part V. to Sales, Partitions, and Exchanges of Real Estate:
Part VI. to Sales of Settled Estates:
Part VII. to the Discontinuance of the Incumbered Estates Court:
Part VIII. to Stamps and Fees:
Part IX. to Miscellaneous Matters.

PART I.

Appointment of Vice-Chancellors, &c.

Part I.

Appointment of Vice Chancelors, &c.

Appointment of Vice-Chancellors. 5 Vict. c. 5. s. 19.

VII. It shall be for Her Majesty to nominate and appoint, by Letters Patent under the Great Seal of Ireland, Two fit Persons, being or having been respectively Barristers-at-Law in Ireland of *Fifteen* Years standing at the least, to be Judges Assistant to the Lord Chancellor in the Discharge of the judicial Functions of his Office, each of such additional Judges to be called Vice-Chancellors; provided that no Vice-Chancellor appointed under this Act shall during his Tenure of Office be capable of sitting in the Commons House of Parliament.

Appointment of Successors of Vice-Chancellors. 5 Vict. c. 5. s. 20.

VIII. From Time to Time, when and as any Vacancy shall occur in the Office of any Vice-Chancellor who shall be appointed under this Act, by the Death, Resignation, or Removal from Office of such Vice Chancellor, or his Successor for the Time being, it shall be lawful for Her Majesty, by Letters Patent under the Great Seal of Ireland, to appoint a fit Person, being or having been a Barrister-at-Law in Ireland of *Fifteen* Years standing at the least, to supply such Vacancy.

In case of Absence of Vice Chancellor, Power to appoint Deputy.

IX. The Office of Vice-Chancellor shall be exercised in Person, and not by Deputy; provided that if any Vice-Chancellor require to be absent from the Discharge of his Duties as such Vice-Chancellor, then and in every such Case the Lord Chancellor may, with the Consent of the Lord Lieutenant, appoint the Master of the Rolls, or One of the other Vice-Chancellors, or the Judge of the Appeal Court in Chancery, or One of the Judges of the Superior Courts, if they shall respectively consent thereto, or some other fit and proper Person, to act as his Deputy for a Period not exceeding *Three* Calendar Months; provided that no Person shall be appointed to act as Deputy Vice-Chancellor of the Court, unless duly qualified to act as such under this Act: Every Person so appointed to perform the Duty of the Vice-Chancellor shall, during the Continuance of such Appointment, have all and every the Rights, Powers, and Authorities, and be subject to all the Duties of such Vice-Chancellor; and every such Person, not being the Master of the Rolls or the other Vice-Chancellor, for the Judge of the Appeal Court in Chancery, who shall be so appointed to act during the Absence of such Vice-Chancellor, shall receive such Proportion of the Salary of such Vice-Chancellor for and during the Period of his Services as shall be allowed by the Lord Chancellor, with the Sanction of the Lord Lieutenant.

Jurisdiction and Powers of Vice-Chancellor.
5 Vict. c. 5. s. 22.

X. Each such Vice-Chancellor shall have Power to hear and determine all Suits, Causes, Matters, and Things which are or shall be at any Time depending in the Court of Chancery in Ireland, either as a Court of Law or as a Court of Equity, or incident to any ministerial Office of the said Court, or which shall have been or shall be submitted to the Jurisdiction of the said Court or of the Lord Chancellor, by the special Authority of the Act of Parliament, as the Court shall from Time to Time by any General Orders to be made as by this Act provided direct; and all Decrees, Orders, and Acts of such Vice-Chancellor so made or done shall be deemed and taken to be respectively, as the Nature of the Case shall require, Decrees, Orders, and Acts of the said Court of Chancery, or of such incidental Jurisdiction, or under such special Authority as aforesaid, and shall have Force and Validity, and be executed accordingly, subject, nevertheless, in every Case to be reversed, discharged, or altered, as by this Act provided; and no such Decree or Order shall be enrolled until the same shall be signed by the Lord Chancellor: Provided always, that no such Vice-Chancellor shall have the Power or Authority to discharge, reverse, or alter any Decree, Order, Act, Matter, or Thing made or done by any other Vice-Chancellor, not being a Predecessor in Office of such Vice-Chancellor, nor any Decree, Order, Act, Matter, or Thing made or done by any Lord Chancellor, unless authorized by the Lord Chancellor so to do, nor any Power or Authority to discharge, reverse, or alter any Decree, Order, Act, Matter, or Thing made or done by the Master of the Rolls.

To sit for Lord Chancellor when required.
5 Vict. c. 5. s. 23.

XI. Each or either of the Vice-Chancellors shall sit for the Lord Chancellor, whenever he shall require him so to do.

Rank and Precedence.
5 Vict. c. 5. s. 27.

XII. The Vice-Chancellors shall respectively have Rank and Precedence next to the Lord Chief Baron of Her Majesty's Court of Exchequer in Ireland, in case no Judge of Appeal shall have been appointed under this Act, and in case any such Judge of Appeal shall have been appointed shall have Rank and Precedence next to such Judge of Appeal; and such Vice-Chancellors, as between themselves, shall have Rank and Precedence according to the Dates of their respective Appointments.

XIII. It

Officers may be directed to attend Vice-Chancellors. 5 Vict. c. 5. s. 20.

XIII. It shall be lawful for the Lord Chancellor to direct that the Secretary, Registrars, and other Officers appointed to attend the Lord Chancellor shall attend each such Vice-Chancellor when sitting for the Lord Chancellor, and also when sitting in his separate Court, as Circumstances shall require, and as the Lord Chancellor shall order.

To hold Office during good Behaviour. 5 Vict. c. 5. s. 27.

XIV. Every Vice-Chancellor shall hold his Office during his good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such Vice-Chancellor from his Office upon an Address of both Houses of Parliament.

Oath of Vice-Chancellor. 5 Vict. c. 5. s. 28.

XV. Every Vice-Chancellor shall, previous to his executing any of the Duties of his Office, take the following Oath, which the Lord Chancellor or the Master of the Rolls for the Time being is hereby respectively authorized and required to administer:

> ' I   do solemnly and sincerely promise and swear, ' That I will duly and faithfully, and to the best of my Skill and ' Power, execute the Office of Vice-Chancellor.
>
> ' So help me GOD.'

XVI. The Master of the Rolls and the Vice-Chancellor shall respectively procure a Seal for their respective Courts, and shall cause to be sealed therewith all Documents by this Act directed to be under the Seal of the Court.

Appointment of Chief Clerks. 15 & 16 Vict. c. 80. s. 16.

XVII. It shall be lawful for the Lord Lieutenant to appoint Six Chief Clerks, Two of whom shall be attached to the Master of the Rolls and each of the Vice-Chancellors respectively, and their Successors in Office, for the Purpose of assisting in the general Business of each Court and the Suits belonging thereto, and on any Vacancy in such Office of Chief Clerk to supply such Vacancy.

Appointment of a Chief Clerk by Lord Chancellor.

XVIII. If it shall appear to the Lord Chancellor that the Business of his Court or of the Court of Appeal under this Act shall render it necessary or expedient, that One Chief Clerk should be appointed, to be attached to the Lord Chancellor and his Successors in Office, for the Purpose of assisting in the general Business of his Court and of the said Court of Appeal, and the Suits belonging to his Court, and in any Matters belonging to or reserved for his Jurisdiction by this Act or otherwise, it shall be lawful for the Lord Lieutenant to appoint such Chief Clerk, and on any Vacancy in such Office of Chief Clerk to supply such Vacancy; and such Chief Clerk shall have all the Powers of any Chief Clerk appointed under this Act, but under the Direction of the Lord Chancellor, and as he may from Time to Time authorize him to exercise in any Cause or Matter.

PART I.

Appointment of Vice-Chancellors, &c.

Qualification of Chief Clerks. 15 & 16 Vict. c. 80. s. 17.

XIX. No Person shall be appointed Chief Clerk to the Lord Chancellor, Master of the Rolls, or any Vice-Chancellor, unless he shall be a Barrister, and shall have practised as such in Ireland for the Period of *Six* Years at least, or shall have been admitted on the Roll of Solicitors or Attornies in One of the Superior Courts at Dublin, and practised as such Solicitor or Attorney for the Period of *Ten* Years at least immediately preceding his Appointment, or have held the Office of Master's Examiner in the Court of Chancery in Ireland, or of Secretary, Registrar, or Examiner in the said Court of Chancery, or in the Court of the Commissioners for the Sale and Transfer of Incumbered Estates in Ireland.

Appointment of Junior Clerks. 15 & 16 Vict. c. 80. s. 18.

XX. It shall be lawful for the Lord Lieutenant to appoint a Junior Clerk to each Chief Clerk (except the Chief Clerk to be attached to the Lord Chancellor), and on any Vacancy in such Office to supply such Vacancy.

Not to take Fees or Profits, save Salary. 15 & 16 Vict. c. 80. s. 19.

XXI. If any Person who shall accept any Office under this Act shall engage in any other Employment whatever whilst he holds such Office, or shall receive any Sum of Money or Benefit, other than his Salary, and what may be allowed or directed to be taken by him under any Act of Parliament or Order of the said Court or of the Lord Chancellor, for any Act done or pretended to be done, or any Attendance given or pretended to be given, either with or without the Consent or Direction or pretended Consent or Direction of the Judge, in relation to or arising out of any Proceeding in his Office or in any Office of or connected with the Court of Chancery, or if such Person, being or having been a Solicitor or Attorney, shall, directly or indirectly, receive or secure to himself any continuing Benefit from any Business or Firm in which he may have been engaged previously to his Appointment to such Office, the Person so offending may be removed from his Office by Order of the Lord Chancellor, and shall be rendered incapable of afterwards holding any Office, Situation, or Employment in the said Court.

Solicitor accepting Office to cease to be Solicitor. 15 & 16 Vict. c. 80. s. 20.

XXII. Every Solicitor or Attorney who shall be appointed to and shall accept Office under this Act shall cease to be an Attorney or Solicitor, and shall forthwith procure himself to be struck off the Roll of Solicitors of the High Court of Chancery, and off the Roll of any of Her Majesty's Court of Record at Dublin, on which his Name may be.

Tenure of Office of Chief or Junior Clerk. 15 & 16 Vict. c. 80. s. 21.

XXIII. Every such Chief and Junior Clerk shall hold his Office during his good Behaviour, and so long as he shall personally attend to and conduct himself honestly and faithfully in the Execution of the Duties of his Office, but subject to the Power herein-after contained to remove any Chief or Junior Clerk for any Cause which the Lord Chancellor and Judges removing may think sufficient.

Chief and Junior Clerks to be under Control of Judge. 15 & 16 Vict. c. 80. s. 23.

XXIV. Such Chief Clerks and Junior Clerks shall be respectively under the Control of the Judge to whose Court they shall respectively be attached, and shall attend at such Places, during such Times, and for such Hours in each Day, and perform such Duties, as such Judge shall from Time to Time direct.

To be removable by Judge for Cause; 15 & 16 Vict. c. 80. s. 24.

XXV. It shall be lawful for the Judge to whose Court any Chief Clerk or Junior Clerk to be appointed under this Act shall be attached by any Order to remove any such Chief Clerk or Junior Clerk from his Office for some sufficient Cause, to be in such Order expressed.

or by Order of Chancellor and Master of Rolls or Vice-Chancellor. 15 & 16 Vict. c. 80. s. 25.

XXVI. It shall be lawful for the Lord Chancellor, with the Concurrence of the Master of the Rolls and Vice-Chancellors for the Time being, or any Two of them, by an Order to remove any such Chief Clerk or Junior Clerk, without stating any Cause for such Removal.

Salaries of Chief and Junior Clerks. 15 & 16 Vict. c. 80. s. 44.

XXVII. There shall be paid to every such Chief Clerk the net yearly Salary of *One thousand Pounds*, and to every such Junior Clerk the net yearly Salary of *Three hundred and fifty Pounds;* and it shall be lawful for the Lord Chancellor from Time to Time by any Order to direct that the Salary of any such Chief Clerk may be increased from Time to Time, until the same shall amount to the net yearly Sum of *One thousand two hundred and fifty Pounds*, and to direct that the Salary of such Junior Clerk may be increased from Time to Time until the same shall amount to the net yearly Sum of *Four hundred and fifty Pounds;* provided that no such Increase shall be made to any such Chief or Junior Clerk until he shall have been in Office for *Three* Years, nor in either Case without a Certificate from the Judge to whose Court such Chief Clerk or Junior Clerk shall be attached that he has conducted himself in such Office to the entire Satisfaction of such Judge; provided also, that the Salary to such Chief Clerk shall not be increased at any Period by any greater Amount than the Sum of *One hundred Pounds.*

Salary of Vice-Chancellor.

XXVIII. There shall be paid the net yearly Salary of *Three thousand five hundred Pounds* to every such Vice-Chancellor, which Salary, and the Salaries herein-before directed to be paid to each Chief Clerk and Junior Clerk, *shall be issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and* shall be free from all Deductions, Abatements, and Taxes, except the Income Tax, and shall be paid quarterly on the Day of the Day of

PART I.

Appointment of Vice-Chancellors, &c.

the Day of and the Day of in every Year, by equal Portions, and the first of such Payments, or a proportionate Part thereof to be computed from the Time of the Appointment of such Vice-Chancellor, Chief Clerk, or Junior Clerk respectively, shall be made on such of the said Days of Payment as shall first happen after the Date of such Appointment; and upon the Resignation, Death, or Removal from Office of any such Vice-Chancellor, Chief Clerk, or Junior Clerk respectively, such Vice-Chancellor, Chief Clerk, and Junior Clerk respectively, or their respective Executors or Administrators, shall be paid such proportionate Part of their respective Salaries as shall have accrued from the Times of the Commencement of such Salaries respectively, or from the last quarterly Day of Payment thereof to the Time of such Resignation, Death, or Removal from Office.

Retiring Pension to Vice-Chancellor.

XXIX. Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, may grant unto any Person executing the Office of Vice-Chancellor, in pursuance of this Act, an Annuity not exceeding *Two thousand four hundred Pounds*, to commence immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said Office of Vice-Chancellor, and to continue from thenceforth during the natural Life of the Person to whom the same shall be granted; and such Annuity shall be *issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland;* and such Annuity shall be paid quarterly, free from all Taxes and Deductions whatsoever, except Income Tax, by equal Portions, on the same quarterly Days as the Salary of such Vice-Chancellor was payable; and the First quarterly Payment, or a proportionate Part thereof, to be computed from the Time of the Resignation of the said Office, shall be made on each of the same Days as shall happen next after the Resignation of the said Office; and the Executors and Administrators of the Person to whom the same Annuity shall be granted as aforesaid shall be paid such proportionate Part of the said Annuity as shall accrue from the Commencement or the last quarterly Payment thereof, as the Case may be, to the Day of his Death; provided, that it shall be lawful for Her Majesty, in and by such Letters Patent, to limit the Duration of Payment of such Annuity or any Part thereof to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall together not exceed in the whole the said Sum of *Two thousand four hundred Pounds;* provided also, that no Annuity granted to any Person having executed the Office of Vice-Chancellor under this Act shall be valid unless such Person shall have continued in the said Office, or in the said Office and the Office of a Judge in One or more of Her

Majesty's Superior Courts, or Judge of Her Majesty's Court of Prerogative in Ireland, or of Master in Ordinary of the said Court of Chancery, for the Period of *Fifteen* Years, or shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant.

PART I. *Appointment of Vice Chancellors, &c.*

Chief and Junior Clerks to be Officers of Court of Chancery.

XXX. Every such Chief Clerk and Junior Clerk shall be deemed to be an Officer of the Court of Chancery in Ireland, and shall be entitled to the like retiring Allowances and upon the same Conditions as are in the "Court of Chancery (Ireland) Regulation Act, 1850," provided in respect of the Officers of the said Court of Chancery; and all of the Provisions of the said Act relating to such retiring Allowances, and the Abatements to be made from the Salaries and official Incomes in the said Act mentioned, shall extend to and include the said Clerks and their respective Salaries; and the said retiring Allowances shall be paid out of the same Funds as are in the said Act specified, subject and without Prejudice to the Payment of all Salaries and other Sums of Money by any former Act or Acts now in force directed or authorized to be paid thereout: Provided always, that in determining the Amounts of such Retiring Allowances the Periods during which such Chief or Junior Clerks shall have held the Office of Master's Examiner in the Court of Chancery, or of Secretary, Registrar, or Examiner in the Court of the Commissioners for the Sale and Transfer of Incumbered Estates in Ireland, shall be taken into account as if during the said Periods the said Chief and Junior Clerks had held their respective Offices in the Court of Chancery.

Appointment of Criers.

XXXI. It shall be lawful for the Lord Chancellor to appoint One or more Person or Persons, removable at Pleasure, for the Purpose of keeping Order in the Court of each of the Vice-Chancellors to be appointed under this Act; and the Salary of the Person or Persons so to be appointed to keep Order shall be of such Amount, not exceeding the yearly Sum of *Eighty Pounds*, as the Lord Chancellor may think reasonable; and such Salary shall be paid to each Person so to be appointed out of the Funds hereafter mentioned.

PART II.

Masters Abolition.

PART II.

Masters Abolition.

Office of Master abolished; (15 & 16 Vict. c. 80. s. 1.) except, &c.

XXXII. The Office of Master in Ordinary of the said Court of Chancery, except the Office of One of the Masters in Ordinary of the said Court, which shall be maintained for the Performance of certain special Duties, as herein provided, shall be and the same is hereby abolished; but reserving and subject to the Execution by the present Masters in Ordinary of the said Court as such of the Duties herein-after provided for, and until they are released under this Act they shall for the Performance of such Duties continue to have all the Powers conferred upon them by any Act of Parliament or otherwise vested in them.

Vacancies not to be filled. 15 & 16 Vict. c. 80. s. 2.

XXXIII. No Vacancy which has already occurred or may hereafter occur in the Office of Master in Ordinary of the said Court shall be filled up, except that of the Master whose Office is to be maintained as herein-after provided.

Masters may be released. 15 & 16 Vict. c. 80. s. 3.

XXXIV. So often hereafter as in the Judgment of the Lord Chancellor, from the State of Business in the said Court, any Master or Masters can be spared other than the said Master whose Office is to be maintained, it shall be lawful for the Lord Chancellor to release any such Master or Masters from his or their Duties as such, at such Time or Times as to him shall seem meet.

Lord Chancellor may release those Masters whose Offices are abolished. 15 & 16 Vict. c. 80. s. 4.

XXXV. Whenever the Lord Chancellor shall be of opinion that the Services of none of the Masters are any longer necessary for the due Execution of the Business of the said Court, it shall be lawful for him to release every remaining Master, except the said Master whose Office is to be maintained.

Released Masters to be entitled to Salaries. 15 & 16 Vict. c. 80. s. 5.

XXXVI. Each one of the Masters to be released shall nevertheless continue entitled to receive during his Life, by way of retiring Pension, the full Amount of his Salary as such Master: Provided always, that nothing herein contained shall extend to affect or prejudice the Right of William Henn, Esquire, One of such Masters, to receive certain annual Sums heretofore payable to him for Compensation as One of the Masters of the said Court.

15 & 16 Vict. c. 80. s. 5.

XXXVII. The Salaries or Retiring Pensions payable to the Masters so to be released, and in the Case of the said William Henn the said Compensation, shall continue or be made payable out of the same Funds, on the Days, and in the Manner in all respects as their present Salaries and the said Compensation respectively.

No further References to be made to Masters, but Masters to finish Business at present pending. 15 & 16 Vict. c. 80. s. 10.

XXXVIII. From and after the *First Day of* *One thousand eight hundred and* no Reference shall be made to any of the Masters in Ordinary of the said Court, except in Cases in which, from some previous Reference made in the Suit, or in some other Suit connected therewith, the Court may think it expedient to make such Reference, and except, in the Case of the said Master whose Office is to be maintained, such References as are herein-after directed: Provided always, that the said Master whose Office is to be maintained, and the other Masters in Ordinary of the said Court, until they shall have been removed by Resignation, Death, or otherwise, or have been released from their Duties under this Act, shall prosecute all the Business which on the *First Day of* *One thousand eight hundred and* shall be pending before the Masters, and also all the References which, before the said *First Day of* *One thousand eight hundred and* shall have been made under Decrees or Orders of the Court, or which, on or after the same First Day of , shall be made in relation to such excepted Matters as aforesaid, and the same, if necessary, shall from Time to Time be distributed amongst or prosecuted by such remaining Masters, and the said Master whose Office is to be maintained, and his Successors in Office, in such Manner as the Lord Chancellor shall direct; and the Powers and Authorities now vested in them are hereby reserved to them for the Purpose of executing and performing all the Duties, Matters, and Things which may be still referred to them, or which they may be lawfully called upon to perform.

Retiring Allowance to Masters Examiners and Clerks, &c.

XXXIX. It shall be lawful for every Person who on the *First Day of* *One thousand eight hundred and* held the Office of Clerk and Examiner to any of the Masters in Ordinary of the said Court of Chancery, other than the Master whose Office shall be maintained under this Act, or of Assistant Clerk to such Clerk and Examiner, and who shall not be appointed to any Office under this Act the Salary of which shall equal or exceed the Salary to which such Person was entitled as such Clerk and Examiner or Assistant Clerk, upon the Master to whom he shall be such Clerk and Examiner or Assistant Clerk being released from the Duties as such Master under the Authority of this Act, or upon the Death, Resignation, or Removal of any such Master previously to his being so released, to make a Claim for Compensation to the Commissioners of Her Majesty's Treasury for the Time being, at any Time after the Master in whose Office he shall have been employed shall have died, resigned, been removed, or released; and such Commissioners are hereby required, within the Space of *Six* Calendar Months after every such Claim shall be made, by Examination upon Oath or otherwise, which Oath they and every of them are and is hereby authorized to administer, to inquire what Compensation ought to be made to such Person claiming such Compensation; and in all Cases in which it shall appear to the said Commissioners that Compensation ought to be granted it shall be lawful for the said Commissioners, by Warrant under their Hands, to order and direct that such annual Compensation shall be made to the Persons claiming such Compensation as aforesaid, or any of them, as to the said Commissioners, in their Discretion, shall seem just and reasonable, and all such Compensations shall be paid and payable out of such Funds and in such Manner as herein-after in that Behalf directed: Provided always, that an Account of all such Compensation shall, within *Fourteen* Days next after the same shall be so granted, be laid on the Table of both Houses of Parliament, if Parliament shall be then assembled, or if Parliament shall not be then assembled, then within *Fourteen* Days after the Meeting of the Parliament then next following.

Salaries to be payable quarterly out of Fee Fund.

XL. Except as herein otherwise provided, all Salaries and Compensation under this Act shall grow due from Day to Day, but shall be payable under an Order of the Lord Chancellor on the
Day of , the Day of , the
Day of , and the Day of in every Year,
or on such other Days as the Lord Chancellor shall from Time to Time by any Order direct, and shall be paid to the Parties entitled thereto, or their respective Executors or Administrators, out of the Fund standing in the Books of the Bank of Ireland in the Name of the Accountant General of the Court of Chancery to the Account intituled "The Suitors Fee Fund Account," but subject and without Prejudice to the Payment of all Salaries and other Sums of Money by any former Act or Acts now in force directed or authorized to be paid thereout.

On Appointment of Masters or Clerks to Office, &c. the Retiring Pension under this Act to be regulated by the Salary, &c. of such Office.
15 & 16 Vict. c. 80. s. 50.

XLI. If at any Time hereafter any of the Masters in Ordinary of the said Court, or any of their Clerks and Examiners or Assistant Clerks, shall be appointed to and shall accept any Office or Employment under this Act, or connected with any Court of Law or Equity, or under the Crown, or in any public Department under the Crown, and if the Salary attached to such Office or Employment, or any Retiring Pension or Allowance in respect thereof, shall equal or exceed in Amount the Retiring Pension or Compensation payable to such Master, or Clerk and Examiner, or Assistant Clerk, under this Act, such last-mentioned Retiring Pension or Compensation shall, during the Continuance of such Master, or such Clerk and Examiner or Assistant Clerk, in such Office or Employment, or so long as he shall be in the Receipt of any Retiring Pension or Allowance in respect thereof equal to or greater than his Retiring Pension or Compensation under this Act, cease to be payable to such Master, or such Clerk and Examiner or Assistant Clerk, as the Case may be; and if the Salary attached to such Office, or the Retiring Pension or Allowance in respect thereof, shall be less than the Amount of such Master's Retiring Pension, or such Clerk and Examiner's or Assistant Clerk's Compensation under this Act, such Retiring Pension or Compensation under this Act shall be reduced by the Amount of such Salary, or of such Retiring Pension or Allowance, as the Case may be.

Appropriation of Masters Offices. 15 & 16 Vict. c. 80. s. 51.

XLII. Such of the Masters Offices as shall not be assigned by the Lord Chancellor as Chambers for the Masters of the Rolls and Vice-Chancellors respectively shall be appropriated to such other Purposes connected with the Court of Chancery as the Lord Chancellor may from Time to Time direct.

Rights and Establishments of the present Masters to continue till released. 15 & 16 Vict. c. 80. s. 58.

XLIII. Nothing herein contained shall prejudice or affect the Title of the present Masters in Ordinary of the said Court to the Salaries payable to them as such Masters, unless and until they shall be respectively released under this Act, or the Power of the Lord Chancellor to order a Retiring Allowance to any of them or any of their Clerks who may be or become afflicted with some permanent Infirmity disabling him from the due Execution of his Office, and who shall be desirous of resigning the same; and every of the present Masters in Ordinary of the said Court, until released under this Act, shall have the same Establishment of Clerks, whose Salaries and Compensation shall be payable out of the same Funds as the Salaries and Compensations of their Clerks are now payable, and all the Expenses attending the Establishment of the Masters Offices shall be paid in like Manner as such Expenses are now paid.

Office of Receiver Master preserved.

XLIV. It shall be lawful for the Lord Chancellor from Time to Time to nominate and appoint One of the Masters in Ordinary of the said Court, to be called the Receiver Master, to discharge the special Duties herein-after provided, and from Time to Time, upon a Vacancy occurring in the Office of such Receiver Master, by Resignation, Death, or otherwise, or by the said Master being released under this Act, to nominate and appoint some One of the remaining Masters such Receiver Master, and when the Number of Masters shall have been reduced to One, then such One remaining Master shall be the

Receiver Master under this Act, and the Office of such remaining Master so becoming Receiver Master under this Act, and of his Successors in Office, shall be maintained for the Discharge of the Duties herein-after specified, and nothing in this Act contained shall be held to repeal or affect the Provisions of any Act or Acts, or any Law or Usage, relating to the Appointment, Salary, and Retiring Annuities of the said Master so becoming Receiver Master or his Successors in Office, or the Provisions of any Act or Acts relating to the Clerk and Examiner or Assistant Clerk, or the Establishment or Office of the said Master or his Successors in Office.

Powers of Receivers Masters.

XLV. The said Receiver Master and his Successors in Office shall, subject to any General Orders to be made as by this Act directed, continue to have, exercise, and perform all such Authorities, Powers, and Duties as shall, upon the said First Day of *One thousand eight hundred and* be possessed, exercised, and performed by any Master in Ordinary of the said Court, with reference to Receivers, Receivers Accounts, and the Management of Estates under Receivers, and all other Matters relating to Receivers, and also all such and such other Authorities, Powers, and Duties as shall, on the said First Day of *One thousand eight hundred and* be possessed, exercised, and performed, or shall be or have been imposed or conferred on any other Master, with respect to the auditing of any Accounts, or the Discharge of any other Duties in relation thereto.

Duties of Receiver Master.

XLVI. The Receiver Master under this Act and his Successors in Office shall, in addition to the Duties above mentioned, discharge such Duties with relation to the auditing of Accounts "in Minor and "Lunatic Matters and Causes," and such other Accounts as the Court shall, by any General Orders to be made as by this Act provided, direct.

XLVII. It shall be lawful for the Lord Chancellor, the Master of the Rolls, the Vice-Chancellors, the Court of Appeal in Chancery, and the Masters to make such References to the said Receiver Master under this Act, and his Successors in Office, in relation to Receivers and the auditing of Accounts, as the Court shall, by any General Orders to be made as by this Act provided, direct, anything in this Act to the contrary notwithstanding.

Power to Receiver Master to appoint

XLVIII. At any Time after the Number of Masters shall have been reduced to One, it shall be lawful for the Lord Chancellor, if he shall consider that the Business of the Office of such remaining Master

or

additional Clerks.

or his Successors in Office renders it necessary or expedient, to sanction, with the previous Approval of the Lords of the Treasury, the Appointment by such Master or his Successors of a Second or additional Clerk and Examiner and Assistant Clerk, or either of them, in the Office of such Master, and thereupon it shall be lawful for such Master to make such Appointment accordingly, and such Second or Additional Clerk and Examiner and Assistant Clerk shall be respectively appointed and shall hold Office in all respects as provided with respect to such Officers in the "Court of Chancery (Ireland) Regulation Act, 1850;" provided that after any such Appointment under this Section shall have been made, no Vacancy of Clerk and Examiner or Assistant Clerks that shall occur in the Office of such Master or his Successors shall be filled up so long as One Clerk and Examiner or Assistant Clerk respectively shall remain in such Office, without such previous Sanction and Approval as aforesaid.

No Vacancy in the Office of Examiner or Clerk to Master to be filled up, except, &c.

XLIX. No Vacancy which has already occurred or may hereafter occur in the Office of Clerk and Examiner to any Master (except the Master whose Office is to be maintained under this Act), or of Assistant Clerk to such Clerk and Examiner, shall be filled up: Provided always, that when any Vacancy shall have occurred or shall occur in the Office of Clerk and Examiner to any Master or Assistant Clerk to such Clerk and Examiner, before such Master shall have been released under this Act, it shall be lawful for the Lord Chancellor, if he shall consider that the State of Business in the Office of such Master renders it expedient that the Office so becoming vacant should be filled up, to sanction the Appointment by such Master of a Clerk and Examiner or Assistant Clerk, as the Case may be, in the Manner herein-after provided; and thereupon it shall be lawful for such Master to appoint, with the Approval of the Lord Chancellor, the Assistant Clerk in the Office of such Master, or the Clerk and Examiner or the Assistant Clerk to the Clerk and Examiner of any Master who shall have been released under this Act, or shall have died, resigned, or been removed before he shall have been released, to the Office of Chief Clerk so becoming vacant, or to appoint, with the like Approval, the Assistant Clerk to the Clerk and Examiner of any such last-mentioned Master to the Office of Assistant Clerk so becoming vacant, and the Person so appointed to either of the said Offices shall hold the said Office to which he shall be so appointed under this Act upon the like Conditions in all respects as if at the Time of his original Appointment to the Office of Clerk and Examiner or Assistant Clerk he had been appointed to the said Office to which he shall be appointed under this Act in the Office of the Master so appointing him under this Act; provided that during such Time as any Person so appointed under this Section to the Office of Clerk and Examiner or Assistant Clerk shall

Part II.

Masters Abolition.

shall hold the said Office, or in case the Person so appointed shall decline to accept the same, any Compensation payable to such Person under this Act as Clerk and Examiner or Assistant Clerk to the Clerk and Examiner of any Master who shall have been released under this Act, or shall have died, resigned, or been removed, before he shall have been so released shall cease to be payable: Provided also, that in case the Master in whose Office such Appointment of a Clerk and Examiner or Assistant Clerk shall have been made under this Section shall become the One remaining Master, thereupon such Clerk and Examiner and Assistant Clerk shall cease to hold Office, and shall be entitled to Compensation as if the Master so appointing them had been released under this Act, and the said Master may supply the said Vacancies accordingly; and provided also, that in case it shall appear to the Lord Chancellor that no such Clerk and Examiner or Assistant Clerk as aforesaid is eligible to such Office so becoming vacant, it shall be lawful for the Lord Chancellor from Time to Time to direct any Officer of the Court of Chancery who shall not hold any Office to which special Duties are attached to temporarily discharge the Duties of the said Office so becoming vacant, and such Officer shall thereupon discharge the same accordingly.

Part III.

Court of Appeal.

PART III.

Court of Appeal in Chancery.

Appointment of Judge of Court of Appeal. 14 & 15 Vict. c. 83. s. 1.

L. It shall be lawful for Her Majesty from Time to Time to nominate and appoint a fit Person who shall have exercised the Office of High Chancellor of Ireland, or who shall be One of the Judges of the Superior Courts of Common Law at Dublin, to be a Judge of the Court of Appeal in Chancery, and every Judge so nominated and appointed shall hold his Office during Her Majesty's Pleasure; or if the State of Business in the said Court, or other Circumstances, should render it expedient so to do, it shall be lawful for Her Majesty, instead of appointing such Judge of the Court of Appeal as aforesaid, from Time to Time, by Letters Patent under the Great Seal of Ireland, to appoint a fit Person, being or having been a Barrister-at-Law in Ireland of *Fifteen* Years standing at the least, to be a Judge of the Court of Appeal in Chancery, and such Judge so to be appointed by Letters Patent shall hold his Office during good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such last-mentioned Judge from his Office upon an Address of both Houses of Parliament.

Court of Appeal. 14 & 15 Vict. c. 83. s. 2.

LI. The Lord Chancellor, together with such Judge for the Time being appointed under this Act, shall form the Court of Appeal in

Chancery, and the Secretaries, Registrars, and other Officers appointed to attend the Lord Chancellor shall attend the said Court of Appeal and the respective Judges thereof, as Circumstances shall require and the Lord Chancellor shall direct.

Title and Rank of Judge of Appeal Court.
14 & 15 Vict. c. 83. s. 3.

LII. The said Judge shall be styled "Lord Justice of the Court "of Appeal in Chancery in Ireland," and shall, as such, have Rank and Precedence next after the Lord Chief Baron of the Court of Exchequer in Ireland.

Oath of Office.
14 & 15 Vict. c. 83. s. 4.

LIII. Every Judge so appointed shall, previous to his executing any of the Duties of his Office, take the following Oath, which the Lord Chancellor or the Master of the Rolls for the Time being is hereby respectively authorized and required to administer:

'I , do solemnly and sincerely promise ' and swear, That I will duly and faithfully, and to the best of my ' Skill and Power, execute the Office of Lord Justice of the Court ' of Appeal in Chancery. So help me GOD.'

Appeals from Master of Rolls or Vice-Chancellors to Court of Appeal.

LIV. From and after the First Day of *One thousand eight hundred and* all Decisions, Decrees, or Orders which shall thereafter be pronounced by the Master of the Rolls or the Vice-Chancellors in any Suit, shall be subject to Appeal to the said Court of Appeal; and from and after the said First Day of *One thousand eight hundred and* it shall not be lawful to appeal to the Lord Chancellor alone in relation to such Directions, Decrees, or Orders as aforesaid, anything herein contained, or any Law or Usage to the contrary notwithstanding: Provided, that nothing herein contained in relation to the said Court of Appeal shall apply to Appeals from Decisions, Decrees, or Orders of the Master of the Rolls pronounced antecedently to the said First Day of *One thousand eight hundred and* , or to Appeals from the Masters, but such Appeals may be preferred as if the Provisions of this Act relating to the said Court of Appeal had not passed.

Powers and Jurisdiction of Court of Appeal.
14 & 15 Vict. c. 83. s. 5.

LV. From and after the First Day of *One thousand eight hundred and* all the Jurisdiction of the Court of Chancery which is now possessed and exercised, or which but for the passing of this Part of this Act would be possessed and exercised by the Lord Chancellor in the said Court of Chancery, in relation to Appeals from the Master of the Rolls or the Vice-Chancellors, and all Powers, Authorities, and Duties, as well ministerial as judicial, incident to such Jurisdiction, now exercised and

PART III.

Court of Appeal.

performed by the Lord Chancellor, shall be then exercised and performed by the said Court of Appeal in relation to Appeals under this Act.

The Jurisdiction of Chancellor transferred to Court of Appeal in relation to Appeals. 14 & 15 Vict. c. 83. s. 6.

LVI. Where under any Act of Parliament any Jurisdiction is vested in the Lord Chancellor, or any Power, Authority, or Duty is to be exercised or performed by the Lord Chancellor, and under the Directions of any Act or by any Usage such Power, Authority, or Duty is or ought to be exercised or performed by the Lord Chancellor acting judicially in the said Court of Chancery, all such Jurisdiction, Power, Authority, and Duty, and the ministerial Powers and Authorities incident thereto or consequent thereupon, which are now exercised and performed by the Lord Chancellor, shall from and after the said First Day of *One thousand eight hundred and* be had, exercised, and performed by the said Court of Appeal in relation to Appeals under this Act: Provided always, that, save as regards Appeals under this Act, the Lord Chancellor shall and may, whilst sitting alone, have and exercise the like Jurisdictions, Powers, and Authorities as might have been exercised by the Lord Chancellor if no Court of Appeal in Chancery had been created by and no Judge of Appeals in Chancery had been appointed under this Act.

Court of Appeal, Master of Rolls, and Vice-Chancellors may have Assistance of Common Law Judge. 14 & 15 Vict. c. 83. s. 8.

LVII. It shall be lawful for the said Court of Appeal, and for the Master of the Rolls and the Vice-Chancellors, and for each of the said Jurisdictions, to sit, with the Assistance of any Judge of Her Majesty's Courts of Common Law in Ireland, upon the Request of the Lord Chancellor, if any such Common Law Judge shall find it convenient to attend upon such Request; and any such Common Law Judge so attending the said Court of Appeal shall, as regards the Matters heard before the said Court, be deemed a Judge of the said Court of Appeal.

Decision of Majority of Judges of Court of Appeal to bind. 14 & 15 Vict. c. 83. s. 9.

LVIII. The Decision of the Majority of the Judges of the Court of Appeal, including such Common Law Judge so attending as aforesaid, shall be taken and deemed to be the Decision of the said Court; and if the Judges of the Court be equally divided in Opinion on any Matter brought before the Court by way of Appeal, the Decree or Order appealed from shall be taken and deemed to be affirmed by the Court of Appeal.

Final Appeal to House of Lords.

LIX. All Decisions, Decrees, or Orders of the Court of Appeal shall be subject to Appeal to the House of Lords in the Cases and under the Conditions in and under which the like Decisions, Decrees, or Orders of the Lord Chancellor would have been subject to such Appeal if this Act had not been passed.

In the Absence of Judge of Appeal, Chancellor may exercise Jurisdiction.

LX. All the Jurisdiction, Powers, and Authorities of the said Court of Appeal may, in the Absence of the said Judge of Appeal to be appointed under this Act, be exercised by the Lord Chancellor sitting alone, or with such Common Law Judge as aforesaid at such Court of Appeal.

The Chancellor to regulate Business of Court. 14 & 15 Vict. c. 83. s. 12.

LXI. The Lord Chancellor shall fix the Times at which the Judge of the said Court of Appeal appointed under this Act shall sit with the Lord Chancellor, and generally make such Regulations as to him may seem proper for regulating the Business of the said Court of Appeal, and for the Attendance of a Registrar of the said Court of Chancery at the Sittings of the said Court of Appeal.

Saving of Powers of Lord Chancellor. 14 & 15 Vict. c. 83. s. 13.

LXII. Nothing herein contained shall affect any of the Powers, Duties, or Authorities attached to the Office of Lord Chancellor, or exercised by the Lord Chancellor as Keeper of the Great Seal of Ireland (except the Powers, Authorities, and Duties which are exercised and performed by him in relation to the Appeals to which this part of this Act relates), or shall affect the Powers, Authorities, and Duties of the Lord Chancellor, in relation to Bankruptcy, or under the Laws or Statutes relating to Bankrupts and Bankruptcy, or under and by virtue of any Appointment under the Sign Manual of the Crown, as having the Custody of the Persons and Estates of Persons found idiot, lunatic, or of unsound Mind, or in relation to Letters Patent, Grants, or Writings passed or to be passed under the Great Seal of Ireland, or the Revocation of such Letters Patent, Grants, or Writings, or the Powers and Authorities of the Lord Chancellor in right or on behalf of Her Majesty as Visitor of any Charity or other Foundation, or to the Powers of the Lord Chancellor of Appointment to, or Removal from, or otherwise in relation to Offices in the Court of Chancery or other Offices, save as herein specially provided, or any Powers of the Lord Chancellor (whether to be exercised by the Lord Chancellor alone, or with the Concurrence or Advice or Consent of the Master of the Rolls, or of the Master of the Rolls and the Vice-Chancellors, or otherwise,) to make Rules or Orders for regulating the Practice, Proceedings, and Business of the Court of Chancery, or the Business or Duties of any of the Offices or Officers of such Court; and in all Cases where the Concurrence, Advice, or Consent of the Master of the Rolls and One of the Vice-Chancellors, or either of them, shall be requisite for the making of such Rules or Orders, the Concurrence, Advice, or Consent of the Judge of Appeal appointed by virtue of this Act may be substituted for that of the Master of the Rolls or of such Vice-Chancellor.

If Lord Chancellor, Master of Rolls, or Vice-Chancellor prevented from sitting, Judge of Appeal Court may sit for him. 14 & 15 Vict. c. 83. s. 14.

LXIII. And in case the Lord Chancellor, Master of the Rolls, or any Vice-Chancellor of the High Court of Chancery shall be prevented by Illness or otherwise from sitting at any Time when, according to ordinary Course, his Court would be open, the Lord Chancellor may, by Writing under his Hand, from Time to Time, as often as Occasion may require, authorize the Judge of the said Court of Appeal to sit for the hearing and determining of Causes and Matters in lieu of the Lord Chancellor, Master of the Rolls, or such Vice-Chancellor; and the Judge sitting under such Authority as aforesaid may, for the Purpose of disposing of any Cause or Matter which has been partly heard by him, continue such his Sittings, notwithstanding the Lord Chancellor, Master of the Rolls, or Vice-Chancellor in whose Stead he has partly heard such Cause or Matter may also be sitting for the Hearing of other Causes or Matters; and all Decrees and Orders made by such Judge in pursuance of such Authority shall be of the same Effect and Validity, and subject to Revision and Appeal in the same Manner in all respects, as if made by the Lord Chancellor, Master of the Rolls, or Vice-Chancellor, as the Case may be.

Salary of Judge of Appeal Court.

LXIV. It shall be lawful for Her Majesty to direct that there shall be paid to the Judge of Appeal to be appointed under this Act a Salary not exceeding *One thousand five hundred Pounds*, in case such Judge shall be in the Receipt of any Salary or Pension as having resigned or been removed from the Office of Lord Chancellor of Ireland, or shall be One of the Judges of the Superior Courts of Common Law at Dublin, and over and above and without Prejudice to any such Salary or Pension, or the Salary or Pension of such Judge as One of the Common Law Judges aforesaid; and in case the Person to be appointed Judge of the Court of Appeal under this Act shall not be in the Receipt of any Pension as Ex-Chancellor, or shall not be such Common Law Judge as aforesaid, such Person, on being appointed by Letters Patent under this Act, shall be entitled to and shall be paid the net yearly Salary of *Four thousand Pounds*, and an Annuity not exceeding *Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence* upon Retirement, payable at the same Times, and out of the same Funds, and subject to the like Conditions in every respect, as if such Person had been a Vice-Chancellor appointed under this Act; and all the Provisions of this Act relating to the Salary and Annuity upon Retirement of each of the Vice-Chancellors to be appointed under this Act shall apply to the Salary and Annuity of such Judge to be appointed by Letters Patent as aforesaid.

PART IV.

Procedure and Practice.

General Provisions.

Power of Masters in Ordinary transferred to Master of Rolls and Vice-Chancellors. 15 & 16 Vict. c. 80. s. 36.

LXV. From and after the First Day of *One thousand eight hundred and* all or any of the Powers, Authorities, and Jurisdiction given to the Master in Ordinary of the said Court by any Act or Acts then in force, or otherwise conferred on or possessed by such Master, may be exercised by the Master of the Rolls and Vice-Chancellors respectively with respect to all Suits pending before them; and wherever by any such Act or Acts, or otherwise, the Order or Direction, Consent or Approbation, of a Master in Ordinary of the said Court was necessary, such Order or Direction, Consent or Approbation, may be made or given by the Master of the Rolls and Vice-Chancellors respectively.

All Powers of winding up Suits given to Masters may be exercised by Master of the Rolls and Vice-Chancellors. 15 & 16 Vict. c. 80. s. 37.

LXVI. From and after the First Day of *One thousand eight hundred and* the Powers by this Act given to the Masters in Ordinary of the said Court and to the Court, for the winding-up of Suits and Matters pending before them, and all other Powers given by this Act, may be exercised by the Master of the Rolls and Vice-Chancellors respectively with respect to Suits which may be pending before them respectively in Chambers; and if and when any such Judge shall be of opinion that any Suit so pending ought to be finally disposed of, unless the Parties, or some of them, can show good Cause to the contrary, he shall direct the same to stand in his Paper in open Court, giving such Notice thereof, if any, as he shall deem right, and proceed to dispose thereof accordingly.

Conduct of Business in Master's Offices. 15 & 16 Vict. c. 80. s. 39.

LXVII. From and after the First Day of *One thousand eight hundred and* the Course of Practice and Proceeding in the Offices of the Masters in Ordinary of the said Court, so far as the same may be inconsistent with the General Orders to be made under this Act, shall be abolished; and the Masters in Ordinary of the said Court shall, with reference to the Proceedings before them, adopt such General Orders, and shall conduct the Business of their respective Offices as nearly as may be in the Manner in which similar Business shall be conducted by the Master of the Rolls and Vice-Chancellors respectively, save only that the Master, instead of communicating directly with the Judge, is to report shortly the Result of his Inquiries to the Court: Provided, however, that nothing in this Section contained shall apply to Petition Matters within the Fifteenth Section of the "Court of Chancery (Ireland)

(Ireland) Regulation Act, 1850," and referred to the Masters under that Act; but the same, and all Proceedings therein, shall be carried on and prosecuted according to the Course and Practice of the Court with reference to such Petitions, on the said First Day of *One thousand eight hundred and* ; and nothing herein contained shall be construed to affect the Power of the Lord Chancellor and Masters to make General Orders respecting such Petitions under and in the Manner directed by the said "Court of Chancery (Ireland) Regulation Act, 1850," or any Act amending the same.

"Chancery Regulation Act, 1850," and Orders under it, to continue in force, except, &c.

LXVIII. "The Court of Chancery (Ireland) Regulation Act, 1850," and all Orders made thereunder, and all General Rules and Orders of the Court made by virtue of any other Authority, shall be continued in full Force, except where the same shall be rescinded, altered, or amended by or are inconsistent with the Provisions of this Act, or shall be rescinded, altered, or amended by or shall be inconsistent with any General Orders to be made as by this Act directed.

General Orders to be made.
15 & 16 Vict. c. 86. s. 63.

LXIX. The Court shall from Time to Time, in the Manner by this Act directed, make General Rules and Orders for carrying the Purposes of this Part of this Act into effect, and for the Distribution of the Business of the Court between the Judges thereof, and for regulating the Times and Form and Mode of Procedure before the Master of the Rolls and Vice-Chancellors respectively, sitting at Chambers, and their respective Chief Clerks, and generally the Practice of the said Court in respect of the Matters to which this Part of this Act relates; and the Court shall have Power, by such General Orders, to alter, so far as may be found expedient, the Course of Proceeding herein-after prescribed in respect to the Matters to which this Part of this Act relates, or any of them; and the Court shall have Power, by any such General Orders, to direct that the Petitions, Affidavits, or other Proceedings to be filed in any Suit, or any of them, shall be printed; and such Rules and Orders may from Time to Time be rescinded or altered by the like Authority; and all such Rules and Orders shall take effect as General Orders of the said Court: Provided always, that so long as the Right Honourable Thomas Berry Cusack Smith, the present Master of the Rolls, shall hold the said Office, it shall not be lawful, in the Distribution of the Business of the said Court, to allot to the said Master of the Rolls any Business relating to the Sale, Partition, or Exchange of Land or Leases, or the Sale of Settled Estates, under this Act, unless the said Master of the Rolls shall consent thereto.

Discretionary Power of Court.

Court may dispense with General

LXX. The Court may, in its Discretion, and on such Terms as to it may seem proper, allow any Proceedings to be taken or Act done, Orders, enlarge Time, &c.

done, although the Period limited by this Act or any General Order of the Court for taking such Proceeding or doing such Act may have elapsed, or the Court may enlarge such Time, and the Court may supply an Omission in any Proceeding; and whenever any Proceedings fail to conform in any respect to this Act, or to any General Orders, or to the said recited Act, the Court shall have Power to permit an Amendment of the Proceeding.

Proceedings may be rectified though Practice not observed. 15 & 16 Vict. c. 86. s. 60.

LXXI. In case any of the Directions herein contained with respect to the Practice and Course of Proceeding in the said Court shall, by Mistake of the Parties, fail to be followed in any Suit or Proceeding in the said Court, it shall be lawful for the said Court, if it shall think fit, upon Payment of such Costs, or on such other Terms as such Court shall direct, to make such Order giving effect to and rectifying such Proceedings as may be justified by the Merits of the Case.

Proceedings of the Judges in Court and in Chambers.

Master of Rolls and Vice-Chancellors to sit in Chambers. 15 & 16 Vict. c. 80. s. 11.

LXXII. From and after the First Day of *One thousand eight hundred and* it shall be lawful for the Master of the Rolls and the Vice-Chancellors for the Time being and they are hereby required to sit at Chambers for the Despatch of such Part of the Business of the said Court as can, without Detriment to the public Advantage arising from the Discussion of Questions in open Court, be heard in Chambers, according to the Directions hereinafter in that Behalf specified or referred to, and the Times at and during which they respectively shall so sit shall be from Time to Time fixed by them respectively.

Courts and Chambers to be provided for Judges.

LXXIII. The Chamber Business of the Master of the Rolls and of every Vice-Chancellor shall be carried on in conjunction with his Court Business; but as no Rooms are attached to the Court of the Master of the Rolls in which such Chamber Business can be transacted, it shall be lawful for the Lord Chancellor, at any Time after the passing of this Act, to cause Chambers to be provided for him for that Purpose, until a Court with proper Rooms attached can be provided; and it shall be lawful for the Lord Chancellor, at any Time after the passing of this Act, to provide temporary Courts and Chambers for the Vice-Chancellors, until a proper Court with proper Rooms attached can be provided for each of them, and to direct the Charges and Expenses of providing such temporary Courts, Chambers, and Rooms, and of maintaining the same, to be paid out of the Suitors Fee Fund.

Jurisdiction in Chambers. 15 & 16 Vict. c. 80. s. 13.

LXXIV. The Master of the Rolls and each of the Vice-Chancellors, when sitting in Chambers, shall have the same Power and Jurisdiction in respect of any Business to be brought before them as if they were respectively sitting in open Court.

Effect of Orders made in Chamber. 15 & 15 Vict. c. 80. s. 15.

LXXV. All Orders of the Master of the Rolls or of any Vice-Chancellor made by him at Chambers shall have the Force and Effect of Orders of the Court of Chancery, and such Orders may be signed and enrolled in like Manner.

Business in Chamber. 15 & 16 Vict. c. 80. s. 26.

LXXVI. The Business to be disposed of by the Master of the Rolls and Vice-Chancellors respectively while sitting at Chambers shall consist of such of the following Matters as the Judge shall from Time to Time think may be more conveniently disposed of in Chambers than in open Court; namely, Applications for Time to take any Steps in any Cause or Matter, for Leave to amend any Pleadings or Proceedings therein, for the Production of Documents or otherwise relating to the Conduct of Suits or Matters, Applications relating to the Guardianship and Maintenance of Infants, Matters connected with the Management of Property, and such other Matters as each such Judge may from Time to Time see fit, or as may from Time to Time be directed by any General Order to be made as by this Act directed; and the Mode of proceeding before each such Judge at Chambers may be regulated by the like General Orders.

Power to adjourn any Matter from Court to Chamber, and vice versâ. 15 & 16 Vict. c. 80. s. 27.

LXXVII. It shall be lawful for the Master of the Rolls and each of the Vice-Chancellors, when sitting in open Court, to adjourn for Consideration in Chambers any Matter which, in the Opinion of such Judge, may be more conveniently disposed of in Chambers, or, when sitting in Chambers, to direct any Matter to be heard in open Court which he may think ought to be so heard.

Judge to regulate and direct Proceedings before Chief Clerk. 15 & 16 Vict. c. 80. s. 29.

LXXVIII. From and after the First Day of *One thousand eight hundred and* , the Master of the Rolls and the Vice-Chancellors respectively shall have the sole Power (subject to any General Orders which may be made as by this Act directed) to regulate the Matters and Things which shall be investigated by and before their respective Chief Clerks, but under their immediate Direction during their Progress, and what Matters and Things shall be heard and investigated by themselves, and particularly, if the Judge shall so direct, his Chief Clerks respectively shall take such Accounts and make such Inquiries as may be requisite; and the Judge shall give such Aid and Directions in every or any such Account or Inquiry as he may think proper, but subject nevertheless to the Right herein-after provided for the Suitor to bring any particular Point before the Judge himself.

Authority of Chief Clerk. 15 & 16 Vict. c. 80. s. 30.

LXXIX. Each Chief Clerk shall, for the Purpose of any Proceedings to be taken before him, have full Power to publish Advertisements, to summon Parties and Witnesses, to administer Oaths, to take Affidavits and Acknowledgments other than Acknowledgments by married Women, to receive Affirmations, and, when so directed by the Judge to whose Court he is attached, to examine Parties and Witnesses either upon Interrogatories or vivâ voce, as such Judge shall direct.

Parties and Witnesses bound to attend on Summons of Chief Clerk. 15 & 16 Vict. c. 80. s. 31.

LXXX. Parties and Witnesses so summoned shall be bound to attend in pursuance of any such Summons, and shall be liable to Process of Contempt in like Manner as Parties or Witnesses are now liable thereto in case of Disobedience to any Order of the said Court, or in case of Default in Attendance in pursuance of any Order of the said Court, or of any Writ of Subpœna ad testificandum; and all Persons swearing or affirming before any such Chief Clerk shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing or affirming contained therein as if the Matters sworn or affirmed had been sworn or affirmed before any Person now by Law authorized to administer Oaths, to take Affidavits, and to receive Affirmations.

Form of Direction to and Certificate of Chief Clerk. 15 & 16 Vict. c. 80. s. 32.

LXXXI. The Directions to be given by the Lord Chancellor, the Master of the Rolls, or any Vice-Chancellor, for or touching any Proceedings before his Chief Clerk, shall require no particular Form, and the Result of such Proceedings shall be concisely stated in the Shape of a short Certificate to the Judge, and shall not be embodied in a formal Report; and when the Judge shall approve of such Certificate he shall sign the same in testimony of his adopting it.

No Exceptions to lie to Certificate. 15 & 16 Vict. c. 80. s. 33.

LXXXII. No Exceptions shall lie to any Certificate of the Chief Clerk, although signed and adopted by the Judge, but any Party shall, either during the Proceedings before such Chief Clerk or within such Time after such Proceedings shall have been concluded, and before the Certificate shall have been signed and adopted, as the Court shall by any General Order direct, be at liberty to take the Opinion of the Judge upon any particular Point or Matter arising in the course of the Proceedings, or upon the Result of the whole Proceeding when it is brought by the Chief Clerk to a Conclusion.

Certificates adopted to be filed, and to

LXXXIII. When any Certificate of the Chief Clerk shall have been signed and adopted by the Judge the same shall be filed in like be binding, unless discharged, &c. 15 & 16 Vict. c. 80. s. 34.

Manner as Reports are now filed, and shall thenceforth be binding on all the Parties to the Proceedings, unless discharged or varied, either at Chambers or in open Court, according to the Nature of the Case, upon Application by Summons or Motion, or in such Form and within such Time as shall be prescribed in that Behalf by any General Order to be made as by this Act directed; and nothing herein contained shall prejudice or affect the Power of the Court at any Time to open any such Certificate upon the same or the like Grounds as any Report of a Master of the said Court which has been absolutely confirmed may now be opened.

Winding up Proceedings in the Masters Offices.

Winding up Proceedings pending in Masters Offices. 15 & 16 Vict. c. 80. s. 7.

LXXXIV. In order as expeditiously as may be to wind up all the Suits which may from Time to Time be depending before or have been referred to the Masters in Ordinary of the said Court, it shall be lawful for every Master, at any Time after the *passing of this Act*, to summon, as he shall deem fit, all or any of the Parties to any Suit so depending, or their Solicitors, and thereupon to proceed with such Suit, and give such Directions and make such Orders as he may think necessary for the Purpose of settling and winding up the same; but any such Order shall be subject to be discharged or varied by the Court, upon Application made for that Purpose; and the Master shall be at liberty to proceed for the Purposes aforesaid in the Absence of any of the Parties or Solicitors neglecting or refusing to attend the Summons.

Notwithstanding Suit abated or defective, Master may proceed. 17 & 18 Vict. c. 100. s. 1.

LXXXV. Upon a Suit in which any Proceeding may from Time to Time be depending before the Master becoming abated by Death, Marriage, or otherwise, or becoming defective by reason of some Change or Transmission of Interest or Liability, it shall be lawful for the Master, notwithstanding that the Suit has become abated or defective, to summon, as he shall deem fit, all or any of the Parties to the Suit, or their or any of their Solicitors, and to require and obtain from them or any of them such Information as may to him seem necessary or proper respecting the Abatement of the Suit, or respecting the same having become defective, and the Change or Transmission of Interest or Liability, and respecting the Person or Persons by and against whom the Suit and Proceedings ought to be revived, or the Decree or Order carried on and prosecuted, for which Purpose the Master shall be at liberty to proceed in the Absence of any of the Parties or Solicitors neglecting or refusing to attend to his Summons.

Master may certify

LXXXVI. In case the Master shall, by the Means aforesaid or otherwise, obtain sufficient Information for his Guidance in this Behalf, he shall be at liberty to certify the Abatement of the Suit, or that the same has become defective, and the Change or Transmission of Interest or Liability.

Change of Interest. 17 & 18 Vict. c. 100. s. 2.

LXXXVII. The Master's Certificate shall be filed, and Notice thereof served by and upon such Person as the Master may direct; and such Certificate so filed and Notice served shall be deemed equivalent to such Suggestion and Notice as is in Section Twenty-nine of the "Court of Chancery (Ireland) Regulation Act, 1850," mentioned, and the Course of Proceeding thereupon shall be the same in all respects as if a Suggestion and Notice had been filed and served as by the said Section directed.

Certificate to have Effect of Suggestion and Notice. 17 & 18 Vict. c. 100. s. 3.

LXXXVIII. In case the Master shall not be able to obtain sufficient Information for his Guidance in certifying as aforesaid, he shall be at liberty to certify the Abatement of the Suit, or that the same has become defective, and the Change or Transmission of Interest or Liability, and that by reason thereof he is unable to dispose of the Proceeding pending before him in the Suit; upon which Certificate the Court, or, in case the Suit so pending shall have been referred to the Master, under the Fifteenth Section of the "Court of Chancery (Ireland) Regulation Act, 1850," the Master shall make such Order as he shall think proper on all or any of the Parties, for the further Prosecution of the Suit, or for the final Disposal thereof, and for the Payment of the Costs thereof, including any of the Costs which may have been incurred by reason of the Conduct of the Parties.

If Master unable to obtain Information, Court or Master may dispose of Suit. 17 & 18 Vict. c. 100. s. 4.

LXXXIX. In the event of the Parties or their Solicitors refusing or neglecting, within a Time to be fixed by the Master, to file or to bring before the Court any such Certificate as aforesaid, or to serve any such Notice as aforesaid, then by the Direction of the Master the Certificate may be filed or brought before the Court or Master, or the Notice may be served by the Solicitor for the Time being in the Matter of Minors and Lunatics; and the Court is hereby empowered to order Payment of the Costs and Expenses of the Solicitor to the Suitors Fee Fund out of such of the Funds in the Suit as to the Court shall seem just, or the Court or Master may order Payment by such Parties as to the Court or Master shall seem just, and in case Payment thereof cannot be obtained by any of the Means aforesaid the same, by the Direction of the Court, may be paid out of the Suitors Fee Fund.

In case of Neglect, &c. of Parties or Solicitors, the Solicitor to Suitors Fee Fund may proceed. 17 & 18 Vict. c. 100. s. 5.

XC. In any Suit which may from Time to Time be pending before or have been referred to a Master, he shall be at liberty to certify specially any Decision at which he may arrive, or any other

Masters may certify specially any Decision. 17 & 18 Vict. c. 100. s. 7.

other Matter relating thereto, in order to obtain a Decision or Direction by or from the Court for his Guidance in the further Proceedings, or to enable any Party to obtain the Opinion of the Court with reference thereto.

If Master unable to dispose of whole he may dispose of Part of Suit. 15 & 16 Vict. c. 80. s. 8.

XCI. In case the Master shall be unable, by reason of the Conduct of Parties or otherwise, to finally dispose of any Suit, he shall be at liberty to dispose of any Part thereof within his Power, and to report or certify on the whole of the Case; and upon such Report or Certificate the Court shall make such Order as it shall think proper on all or any of the Parties for the further Prosecution of the Suit, or for the final Disposal thereof, and for the Costs thereof, including any of the Costs which may have been incurred by reason of the Conduct of the Parties.

Parties.

No Objection for Want of Parties in Cases to which Rules apply. 15 & 16 Vict. c. 86. s. 42.

XCII. It shall not be competent to any Party in any Suit in the said Court to take any Objection for Want of Parties to such Suit in any Case to which the Rules next herein-after set forth extend, and such Rules shall be deemed and taken as Part of the Law and Practice of the said Court, and any Law or Practice of the said Court inconsistent therewith shall be and is hereby abrogated and annulled:

Rule 1. Any Residuary Legatee or next of Kin may, without serving the remaining Residuary Legatees or next of Kin, have a Decree for the Administration of the Personal Estate of a deceased Person:

Rule 2. Any Legatee interested in a Legacy charged upon Real Estate, and any Person interested in the Proceeds of Real Estate directed to be sold, may, without serving any other Legatee or Person interested in the Proceeds of the Estate, have a Decree for the Administration of the Estate of a deceased Person:

Rule 3. Any Residuary Devisee or Heir may, without serving any Co-Residuary Devisee or Coheir, have the like Decree:

Rule 4. Any One of the several Cestuique Trust under any Deed or Instrument may, without serving any other Cestuique Trust, have a Decree for the Execution of the Trusts of the Deed or Instrument:

Rule 5. In all Cases of Suits for the Protection of Property pending Litigation, and in all Cases in the Nature of Waste, One Person may sue on behalf of himself and of all Persons having the same Interest:

Rule 6. Any Executors, Administrator, or Trustee may obtain a Decree against any One Legatee, next of Kin, or Cestuique Trust, for the Administration of the Estate or the Execution of the Trusts:

Rule 7. In all the above Cases the Court, if it shall see fit, may require any other Person or Persons to be made a Party or Parties to the Suit, and may, if it shall see fit, give the Conduct of the Suit to such Person as it may deem proper, and may make such Order in any particular Case as it may deem just for placing the Respondent on the Record on the same Footing in regard to Costs as other Parties having a common Interest with him in the Matters in question:

Rule 8. In all the above Cases the Persons who, according to the present Practice of the Court, would be necessary Parties to the Suit, shall be served with Notice of the Decree, and after such Notice they shall be bound by the Proceedings in the same Manner as if they had been originally made Parties to the Suit, and they may, by an Order of Course, have Liberty to attend the Proceedings under the Decree; and any Party so served may, within such Time as shall in that Behalf be prescribed by the General Order of the Court, apply to the Court to add to the Decree:

Rule 9. In all Suits concerning Real or Personal Estate which is vested in Trustees under a Will, Settlement, or otherwise, such Trustees shall represent the Persons beneficially interested under the Trust, in the same Manner and to the same Extent as the Executors or Administrators in Suits concerning Personal Estate represent the Persons beneficially interested in such Personal Estate; and in such Cases it shall not be necessary to make the Persons beneficially interested under the Trust Parties to the Suit, but the Court may, upon Consideration of the Matter on the Hearing, if it shall so think fit, order such Persons or any of them to be made Parties.

Court may proceed in Absence of Representative of deceased Person, or appoint a Person to represent Estate.
15 & 16 Vict. c. 86. s. 44.

XCIII. If in any such Suit before the Court it shall appear that any deceased Person who was interested in the Matters in question has no legal Representative, it shall be lawful for the Court either to proceed in the Absence of any Person representing the Estate of such deceased Person, or to appoint some Person to represent such Estate, for all the Purposes of the Suit or other Proceedings, on such Notice to such Person or Persons, if any, as the Court shall think fit, either specially or generally by public Advertisements; and the Order so made by the Court, and any Orders consequent thereon, shall bind the Estate of such deceased Person in such Manner in every respect as if there had been a duly constituted legal personal Representative of such deceased Person, and such legal Representative had been a Party to the Suit, and had duly appeared and submitted his Rights and Interests to the Protection of the Court.

PART IV.

Procedure.

Misjoinder of Plaintiffs 15 & 16 Vict. c. 86. s. 49.

XCIV. No Suit in the said Court shall be dismissed by reason only of the Misjoinder of Persons Plaintiffs therein; but whenever it shall appear to the Court that, notwithstanding the Conflict of Interest in the Co-Plaintiffs, or the Want of Interest in some of the Plaintiffs, or the Existence of some Ground of Defence affecting some or One of the Plaintiffs, the Plaintiffs, or some or One of them, are or is entitled to Relief, the Court shall have the Power to grant such Relief, and to modify its Decree according to the special Circumstances of the Case, and for that Purpose to direct such Amendments, if any, as may be necessary, and at the Hearing before such Amendments are made to treat any One or more of the Plaintiffs as if he or they was or were a Defendant or Defendants in the Suit, and the remaining or other Plaintiff or Plaintiffs was or were the only Plaintiff or Plaintiffs on the Record; and where there is a Misjoinder of Plaintiffs, and the Plaintiff having an Interest shall have died leaving a Plaintiff on the Record without an Interest, the Court may at the Hearing of Cause order the Cause to stand revived, as may appear just, and proceed to a Decision of the Cause, if it shall see fit, and give such Directions as to Costs or otherwise as may appear just and expedient.

Declaratory Orders without consequential Relief. 15 & 16 Vict. c. 86. s. 51.

XCV. No Suit in the said Court shall be open to Objection on the Ground that a merely declaratory Decree or Order is sought thereby; and it shall be lawful for the Court to make binding Declarations of Right without granting consequential Relief.

Relief though some only of Parties interested before Court. 15 & 16 Vict. c. 86. s. 51.

XCVI. It shall be lawful for the Court to adjudicate on Questions arising between Parties, notwithstanding that they may be some only of the Parties interested in the Property respecting which the Question may have arisen, or that the Property in question is comprised with other Property in the same Settlement, Will, or other Instrument, without making the other Parties interested in the Property respecting which the Question may have arisen, or interested under the same Settlement, Will, or other Instrument, Parties to the Suit, and without requiring the whole Trusts and Purposes of the Settlement, Will, or other Instrument to be executed under the Direction of the Court, and without taking the Accounts of the Trustees or other accounting Parties, or ascertaining the Particulars or Amount of the Property touching which the Question or Questions may have arisen: Provided always, that if the Court shall be of opinion that the Application is fraudulent or collusive, or for some other Reason ought not to be entertained, it shall have Power to refuse to make the Order prayed.

Evidence.

Proofs may be by Affidavit or by

XCVII. Proofs shall be made and Evidence given at the Hearing, either by Affidavit or vivâ voce, or partly by Affidavit and partly

Witnesses vivâ voce.

vivâ voce, or wholly or partly by the Evidence of Witnesses taken as by this Act directed, in such Cases and in such Manner as the Court shall, by any General Orders to be made under this Act, or by any Special Order to be made in any particular Case, direct.

Mode of Examination. 15 & 16 Vict. c. 86. s. 28.

XCVIII. The Mode of examining Witnesses in Causes or Cause Petition Matters in the said Court, and all the Practice of the said Court in relation thereto, so far as such Practice shall be inconsistent with the Mode herein-after prescribed of examining such Witnesses, and the Practice in relation thereto, shall, from and after the Time appointed for the Commencement of this Act, be abolished, save as herein-after otherwise specially provided, and all such Witnesses shall be examined orally in manner herein-after expressed: Provided always, that the Court, if it shall think fit, may order any particular Witness or Witnesses to be examined upon Interrogatories; and that with respect to such Witness or Witnesses the Practice of the said Court in relation to the Examination of Witnesses shall continue in full Force, save only so far as the same are varied by the Provisions of this Act, or as the same may be varied by any General Order to be made as by this Act directed, or by any Order of the Court with reference to any particular Case.

In Suits to perpetuate Testimony, &c.

XCIX. The Examination of Witnesses, de bene esse, and in Suits to perpetuate Testimony, shall be conducted orally, in manner herein provided, instead of upon Interrogatories, unless the Court shall otherwise order.

Mode of oral Examination. 15 & 16 Vict. c. 86. s. 31.

C. All Witnesses to be examined orally under the Provisions of this Act shall be so examined before One of the Examiners or Chief Clerks of the Court, or by or before an Examiner to be specially appointed by the Court, the Examiner being furnished by the Plaintiff with a Copy of the Bill or Petition, and of the Answers, or answering Affidavit or Affidavits, if any, in the Cause; and every such Examination shall take place in the Presence of the Parties, their Counsel, Solicitors, or Agents; and the Witnesses so examined orally shall be subject to Cross-examination and Re-examination; and such Examination, Cross-examination, and Re-examination shall be conducted as nearly as may be in the Mode now in use in Courts of Common Law in relation to Witnesses not expected to be present at the Trial of a Cause; and every Party to the Suit may have a Copy of the Depositions or any Part thereof, in like Manner as Examinations upon Interrogatories.

Commissions abolished. Ex-

CI. The Practice of the said Court of issuing Commissions to special Examiners for the Examination of Witnesses shall be and the

PART IV.

Procedure.

aminers to be appointed by Order.

same is hereby abolished, and in lieu thereof, whenever it shall be necessary to appoint a special Examiner for the Purpose of examining Witnesses, either in chief or in aid of any Inquiry in any Suit, the Judge before whom such Suit shall be pending or to whose Court it shall be attached shall appoint such Examiner according to the present Practice of the Court relating to the Appointment of Commissioner Examiners, so far as such Practice is applicable thereto; but such Appointment shall be made by the Order of such Judge, and such Order shall state the Rate of Payment to such Examiner, and the Time within which the Examination is to be closed, whenever the Court shall deem it expedient so to state, and give such other Directions for the Regulation of the Conduct of the Examination as to the Court shall seem proper; and every such Examiner, when so appointed, and on taking the Oath herein-after mentioned, shall have full Power and Authority, subject to the present Rules and Practice in that Behalf, to summon for Examination and to examine all Witnesses produced before him for Examination in such Suit, and to call for Documents and to administer Oaths; and all Persons examined before such Examiner so appointed as before mentioned shall be subject and liable to all such Penalties, Punishment, and Consequences for any wilful and corrupt false swearing, affirming, or declaring as if such Witnesses had been examined under the Authority of a Commission issued forth of the same Court and under the Seal thereof.

Oath of Examiner.

CII. Before proceeding to examine Witnesses the Examiner so appointed is to take and subscribe before some Person duly authorized to take Affidavits in or for the said Court the following Oath, which shall be annexed to and returned with the Depositions taken by such Examiner; that is to say,

'I , do swear, That I will, according to the best of my Skill and Knowledge, truly, faithfully, and diligently perform the Duty of an Examiner, to examine Witnesses, pursuant to the Powers vested in me by the annexed Order of Appointment, and that I will truly, faithfully, diligently, and without Partiality to any or either of the Parties in this Suit, take and write down the Examinations and Depositions of all and every Witness and Witnesses who shall be produced and examined before me. So help me GOD.'

Affidavits, &c. how to be sworn in Colonies and Foreign Countries. 15 & 16 Vict. c. 86. s. 22.

CIII. All Pleas, Answers, Disclaimers, Examinations, Affidavits, Declarations, Affirmations, and Attestations of Honour in Suits depending in the High Court of Chancery in Ireland, as also Acknowledgments required for the Purpose of enrolling any Deed in the said

Court, shall and may be sworn and taken, in any Colony, Island, Plantation, or Place under the Dominion of Her Majesty in Foreign Parts, before any Judge, Court, Notary Public, or Person lawfully authorized to administer Oaths in such Colony, Island, Plantation, or Place, or before any of Her Majesty's Consuls or Vice Consuls in any Foreign Parts out of Her Majesty's Dominions; and the Judges and Officers of the said Court of Chancery shall take judicial Notice of the Seal or Signature, as the Case may be, of any such Court, Judge, Notary Public, Person, Consul or Vice Consul, attached, appended, or subscribed to any such Pleas, Answers, Disclaimers, Examinations, Affidavits, Affirmations, Attestations of Honour, Declarations, Acknowledgments, or other Documents to be used in the said Court.

Punishment of Perjury. 15 & 16 Vict. c. 86. s. 23.

CIV. All Persons swearing, declaring, affirming, or attesting before any Person authorized by this Act to administer Oaths, and take Declarations, Affirmations, or Attestations of Honour, shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing, declaring, affirming, or attesting contained therein, as if the Matter sworn, declared, affirmed, or attested had been sworn, declared, affirmed, or attested before any Court or Persons now by Law authorized to administer Oaths, and take Declarations, Affirmations, or Attestations upon Honour.

Forgery a Felony. 15 & 16 Vict. c. 86. s. 24.

CV. If any Person shall forge the Signature or the official Seal of any such Judge, Notary Public, or other Person lawfully authorized to administer Oaths under this Act, or shall tender in Evidence any Plea, Answer, Disclaimer, Examination, Affidavit, or other judicial or official Document, with a false or counterfeit Signature or Seal of any such Judge, Court, Notary Public, or other Person authorized as aforesaid attached or appended thereto, knowing the same Signature or Seal to be false or counterfeit, every such Person shall be guilty of Felony, and shall be liable to the same Punishment as any Offender under an Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled "An Act to facilitate the Admission in "Evidence of certain official and other Documents."

8 & 9 Vict. c. 113.

Practice and Procedure as to the summoning, &c. of Witnesses.

CVI. The Court shall by General Orders regulate the Practice and Procedure of the Court with respect to the summoning and compelling the Attendance of Witnesses and the Production of Documents, and shall have Power to abolish or alter the existing Practice of the Court of issuing Subpœnas, or in any other respect in relation to the Matters aforesaid, and to substitute any other Practice and Procedure in lieu of such existing Practice and Procedure; and, subject to any General Orders, the same Penalties, Punishment, and Consequences shall be incurred by Disobedience to any Form of Procedure adopted in lieu of the said Subpœnas or either of them as in case of Disobedience to such Subpœnas.

Practice and Procedure at Examination of Witnesses.

CVII. The Court shall by General Orders regulate the Practice and Procedure of the Court in relation to the Examination and Depositions of Witnesses, and the Powers and Duties of the Examiners and other Officers of the Court in relation thereto.

Witness refusing to be sworn, &c. 15 & 16 Vict. c. 86. s. 33.

CVIII. If any Person produced before any such Examiner as a Witness shall refuse to be sworn, or to answer any lawful Question put to him by the Examiner, or by either of the Parties, or by his or their Counsel, Solicitor, or Agent, the same Course shall be adopted with respect to such Witness as is now pursued in the Case of a Witness produced for Examination before an Examiner of the said Court upon written Interrogatories, and refusing to be sworn or to answer some lawful Question: Provided always, that if any Witness shall demur or object to any Question or Questions which may be put to him, the Question or Questions so put, and the Demurrer or Objection of the Witness thereto, shall be taken down by the Examiner, and transmitted by him to the Record Office of the said Court, to be there filed; and the Validity of such Demurrer or Objection shall be decided by the Court, and the Costs of and occasioned by such Demurrer or Objection shall be in the Discretion of the Court.

Closing Evidence, Cross Examination, and Re-examination. 15 & 16 Vict. c. 86. s. 38.

CIX. The Evidence on both Sides in any Suit in the said Court, whether taken orally (and including the Cross-examination and Re-examination of any Witness or Witnesses) or taken upon Affidavit, shall be closed within such Time or respective Times as shall in that Behalf be prescribed by any General Order to be made as by this Act directed, but with Power to the Court to enlarge such Period as it may see fit; and after the Time fixed for closing the Evidence no further Evidence, whether oral or by Affidavit, shall be receivable without special Leave of the Court previously obtained for that Purpose: Provided always, that any Witness who has made an Affidavit filed by any Party to a Suit shall be subject to oral Cross-examination, within such Time after the Time fixed for closing the Evidence as shall be prescribed in that Behalf by any such General Order as aforesaid, by or before an Examiner, in the same Manner as if the Evidence given by him in his Affidavit had been given by him orally before the Examiner, and after such Cross-examination may be re-examined orally by or on the Part of the Party by whom such Affidavit was filed, but such Re-examination shall immediately follow such Cross-examination, and shall not be delayed to a future Period, and such Witness shall be bound to attend before such Examiner to be so cross-examined and re-examined, upon receiving due and proper Notice, and Payment of his reasonable Expenses, in like Manner as if he had been duly served with Summons to attend before such Examiner, and the Expenses attending such Cross-examination and Re-examination shall be paid by the Parties respectively in like Manner as if the Witness so to be cross-examined were the Witness of the Party cross-examining, and shall be deemed Costs in the Cause of such Parties respectively, unless the Court shall think it fit otherwise to direct.

Court may require oral Examination of any Party or Witness. 15 & 16 Vict. c. 86. s. 39.

CX. Upon the Hearing of any Suit depending in the said Court, the Court, if it shall see fit so to do, may require the Production and oral Examination before the Court of any Witness or Party in the Suit, and may direct the Costs of and attending the Production and Examination of such Witness or Party to be paid by such of the Parties to the Suit or in such Manner as it may think fit, and the Examination in such Case shall be conducted and the Evidence recorded in like Manner as Examinations are conducted and Evidence is at present recorded in the Bankrupt Court.

Attendance of Witness before Examiner. 15 & 16 Vict. c. 86. s. 40.

Cross-examination of Person who makes Affidavit.

CXI. Any Party in a Suit depending in the same Court may, by Notice to be issued by an Examiner of the said Court or by an Examiner specially appointed for the Purpose, require the Attendance of any Witness before such Examiner, and examine such Witness orally, for the Purpose of using his Evidence upon any Motion, Petition, or other Proceeding before the Court, in like Manner as such Witness would be bound to attend and be examined with a view to the Hearing of a Cause; and any Person having made an Affidavit to be used or which shall be used, or any Motion, Petition, or other Proceeding before the Court, shall be bound, on being served with such Notice, to attend before an Examiner for the Purpose of being cross-examined: Provided always, that the Court shall always have a discretionary Power of acting upon such Evidence as may be before it at the Time, and of making such interim Orders or otherwise as may appear necessary to meet the Justice of the Case.

Power to compel Production of Documents by Persons not Parties to Suit.

CXII. The Court may, upon special Motion, order and direct any Person not being a Party to a Suit to bring into Court, for the Purpose of such Suit, any Deeds, Documents, or Papers in his Custody, Power, or Possession, subject to his Lien thereon, if any, or to allow Inspection and Copies or Extracts to be taken of the same, in the like Manner in which, if such Person had been a Party to such Suit or Matter, he might have been ordered to bring the same into

PART IV. *Procedure.*

Court or to allow Inspection as aforesaid, and the Costs of such Motion shall be in the Discretion of the Court.

Miscellaneous.

Power to procure Assistance of Valuators, &c. 15 & 16 Vict. c. 80. s. 42.

CXIII. It shall be lawful for the said Court or any Judge thereof, in such Way as he may think fit, to obtain the Assistance of Valuators, Surveyors, Accountants, Merchants, Engineers, Actuaries, or other scientific Persons, the better to enable such Court or Judge to determine any Matter at issue in any Cause or Proceeding, and to act upon the Certificate of such Persons.

Remuneration of Valuators, &c. 15 & 16 Vict. c. 80. s. 43.

CXIV. The Allowances in respect of Fees and Remuneration to such Valuators, Surveyors, Accountants, Merchants, Engineers, Actuaries, and other scientific Persons shall be regulated by the Taxing Master of the said Court, subject to an Appeal to the Judge to whose Court the Cause or Matter shall be attached, whose Decision shall be final, subject, however, to any General Orders to be made as by this Act directed in relation to such Fees and Remuneration.

Court may direct Real Estate to be sold at any Time after Institution of Suit. 15 & 16 Vict. c. 86. s. 55.

CXV. If in any Suit instituted in the said Court in relation to Real Estate of any Tenure it shall appear to the Court that it will be necessary or expedient that the said Real Estate or any Part thereof should be sold for the Purposes of such Suit, it shall be lawful for the said Court to direct the same to be sold at any Time after the Institution of such Suit, and such Sale shall be as valid to all Intents and Purposes as if directed to be made by a Decree or Decretal Order on the Hearing of such Suit; and any Party to the Suit in possession of such Estate or in receipt of the Rents and Profits thereof shall be compelled to deliver up such Possession or Receipt to the Purchaser, or such other Person as the Court shall direct; and all Parties having Charges on such Estate, or an Interest in the Produce thereof, shall have the same Lien upon the Purchase Money that they had upon the Estate, and such Purchase Money shall be brought into and remain in Court, to abide the Event of any Accounts which may be necessary for ascertaining such Charges: Provided, nevertheless, that the Court shall be at liberty, pending such Account, to order Payment of any Portion of the Fund in Court to any Party or Creditor who may appear to be entitled thereto pending such Accounts.

Provisional Credits.

Court may in certain Cases allow Income of Estate to be received

CXVI. Where any Real or Personal Estate shall form the Subject of any Proceedings in the Court of Chancery, and the Court shall be satisfied that the same will be more than sufficient to answer all the

Claims

by Parties interested. 15 & 16 Vict. c. 86. s. 57.

Claims thereon which ought to be provided for in such Suit, it shall be lawful for the said Court, at any Time after the Commencement of such Proceedings, to allow the Parties interested therein, or any One or more of them, the whole or Part of the annual Income of such Real Property, or a Part of such Personal Property, or a Part or the whole of the Income thereof up to such Time as the said Court shall direct, and for that Purpose to make such Orders as may appear to the said Court necessary or expedient.

Approbation of Master to Transfer of Stock discontinued.

CXVII. The Practice of the said Court, heretofore observed, of requiring the Approbation of a Master to Transfers of Stock and Investments of Cash, shall be discontinued, and the Court shall by General Orders direct the Formalities to be observed upon such Transfers or Investments.

Relators and next Friends to file written Authority. 15 & 16 Vict. c. 86. s. 11.

CXVIII. Before the Name of any Person shall be used in any Suit to be instituted in the said Court as next Friend of any Infant, married Woman, or other Party, or as the Relator in any Information, such Person shall sign a written Authority to the Solicitor for that Purpose, and such Authority shall be filed with the Petition, Bill, or Information.

Substitution when Party out of Jurisdiction.

CXIX. When a Party to a Suit is out of the Jurisdiction of the Court, the Court shall have Power to direct, substitute, or dispense with Service upon such Party, in such Cases, upon such Terms, and in such Manner and Form as the Court shall by any General Orders direct.

Appeals.

CXX. All Decrees, Decisions, and Orders of the Master of the Rolls or any of the Vice-Chancellors, including Orders for Payment of Costs, shall be made up in such Manner and by such Officers of the Court as the Court shall by General Order direct, and may be appealed from by Motion or Notice, without Objections or Exceptions, and an Appeal shall lie upon such Matters from the Court of Appeal to the House of Lords, such Appeals to be within such Time and subject to such Conditions as have been enacted by the said recited "Court of Chancery (Ireland) Regulation Act, 1850," in relation to such Appeals, save that the Party appealing shall (subject to any General Order) specify in the Notice of Appeal the Matter or Matters in respect of which such Order or Decree is objected to, whether such Objections have been to the Reception or Rejection of Evidence, or the Decision of Matters of Law or Fact.

No Case to be stated for Opinion of

CXXI. It shall not be lawful for the said Court of Chancery in any Suit to direct a Case to be stated for the Opinion of any Court

Part IV. — *Procedure.*

Court of Law. 15 & 16 Vict. c. 86. s. 61.

of Common Law, but the said Court of Chancery shall have full Power to determine any Questions of Law which in the Judgment of the said Court of Chancery shall be necessary to be decided previously to the Decision of the equitable Question at issue between the Parties.

Court may determine legal Title. 15 & 16 Vict. c. 86. s. 62.

CXXII. In Cases where, according to the present Practice of the Court of Chancery, such Court declines to grant equitable Relief until the legal Title or Right of the Party or Parties seeking such Relief shall have been established in a Proceeding at Law, the said Court may itself determine such Title or Right without requiring the Parties to proceed at Law to establish the same.

Chancellor may deliver Judgment after having delivered up the Great Seal. 15 & 16 Vict. c. 80. s. 60.

CXXIII. Where after any Case has been heard by the Lord Chancellor, and is standing for Judgment, the Lord Chancellor has delivered up the Great Seal of Ireland without being able to deliver Judgment therein, it shall be lawful for the Person who has so delivered up the Great Seal, within *Six* Weeks after he shall have delivered up the same, to give in to the Registrar of the said Court a written Judgment therein, signed by him; and a Decree or Order, as the Case may require, shall be drawn up in pursuance of such Judgment, and every such Decree or Order shall have the same Force and Effect as if the Judgment in pursuance whereof it is drawn up had been given in open Court the Day before the Letters Patent of his Successor in Office had been sealed.

Part V. — *Sale of Real Estate.*

PART V.

Sale, Partition, and Exchange of Real Estate.

Owner of or Incumbrancer on Estate or Lease may apply for a Sale.

CXXIV. When any Estate or Lease in Ireland shall be liable to be sold, or the Owner of any Estate or Lease in Ireland shall desire to sell the same, it shall be lawful for the Owner or any Incumbrancer or other Person entitled to have or for the Owner so desiring to have a Sale thereof to apply to Chancery for a Sale of such Estate or Lease.

When Estate or Lease liable to be sold.

CXXV. An Estate or Lease in Ireland shall be deemed liable to be sold in all Cases where a Decree or Order for the Sale thereof might have been obtained in a Court of Justice, and also when any such Estate or Lease is subject to any Contract or Trust for Sale.

When subject to Contract for Sale.

CXXVI. When any such Estate or Lease shall be subject to any Contract for Sale, it shall be lawful for any Party entitled to have such Contract carried into specific Execution to apply to the Court to effectuate such Sale under this Act.

When Land subject to an Incumbrance, Incumbrancer or Owner may apply for Sale. 12 & 13 Vict. c. 77. ss. 16. 54.

CXXVII. When Land in Ireland shall be subject to any Incumbrance, the Incumbrancer, or any Person entitled in possession of such Land in Tail, or quasi in Tail, or for a Life or Lives, or for a Term of Years of which not less than Ninety-nine Years are unexpired, not being a Lessee at a Rent, and also any Person entitled in possession as Tenant by the Courtesy, whether at Law or in Equity, and any Person entitled in possession for any such Estate as aforesaid to the Equity of Redemption in any Land, or to the Land subject to any Incumbrance, or a Trust for the Payment of any Incumbrance, may apply to the Court as aforesaid for a Sale of the Fee-simple and Inheritance of such Land, for the Purpose of discharging the Incumbrances thereon; and the Person entitled to any such Estate as aforesaid shall be deemed the Owner of the Fee-simple Estate in such Land, within the Meaning and for the Purposes of this Act; provided that such Land shall not be deemed subject to an Incumbrance when the same shall not affect the Fee-simple Estate, unless such Incumbrance shall affect a Term of not less than Fifty Years absolute unexpired, or a greater Estate in such Land, and shall have been created by the Owner of an Estate of Inheritance, or by a Person who, but for an Act which is void against or postponed at Law or in Equity to such Incumbrance, would be the Owner of an Estate of Inheritance, but an Incumbrance charged under a Power created by the Owner of an Estate of Inheritance shall be deemed to have been created by such Owner.

Who deemed Owner of Fee-simple. 12 & 13 Vict. c. 77. s. 19.

Where Lease subject to an Incumbrance, Incumbrancer or Owner may apply for Sale. 12 & 13 Vict. c. 77. ss. 16. 54.

CXXVIII. When a Lease of Land in Ireland shall be subject to any Incumbrance, the Incumbrancer, or any Person entitled in possession to the Land comprised in such Lease for any derivative Estate (created by Settlement or testamentary or other Disposition thereof) quasi in Tail, or for Life or Lives, or for Years determinable on the dropping of a Life or Lives, or for Years of which not less than Fifty Years are unexpired, not being an Under-lessee at a Rent derived out of such Lease, and any Person entitled in possession for such derivative Estate as aforesaid to the Equity of Redemption in such Lease, or to such Lease subject to any Incumbrance, or a Trust for the Payment of any Incumbrance, may apply to the Court for a Sale of such Lease under this Act, for the Purpose of discharging the Incumbrances thereon; and any Person entitled to any such derivative Estate as aforesaid shall be deemed to be the Owner of such Lease, within the Meaning and for the Purposes of this Act; provided such Lease shall not be deemed subject to an Incumbrance when the same shall affect a derivative Estate or Interest only, or less than the whole Estate created

Who deemed Owner of Lease. 12 & 13 Vict. c. 77. s. 19.

created or agreed to be created by such Lease, unless such Incumbrance shall have been created by the Owner of or Person entitled to the whole Estate created or agreed to be created by such Lease as aforesaid, or by a Person who, but for an Act which is void against or postponed at Law or in Equity to such Incumbrance, would be such Owner or so entitled, but any Incumbrance charged under a Power created by the Owner of or Person entitled to such whole Estate as aforesaid shall be deemed to have been created by such Owner or Person so entitled.

When Incumbrance settled, Court may act on Consent, &c. of Person entitled to Income, &c. 12 & 13 Vict. c. 77. s. 20.

CXXIX. When any Incumbrance shall be subject to any Limitations of Estate or Interest, or shall be held upon any Trust, the Court may proceed and act upon an Application or Consent under this Act made or given in respect of such Incumbrance by the First Person entitled to the Income of such Incumbrance, or by any Trustee thereof, or other Person whose Estate or Interest in the Incumbrance shall appear to the Court sufficient to enable him properly to apply or consent in respect of the Parties interested in the Incumbrance.

When Demise is in Law, an Assignment Act shall apply to Rent as if Reversion. 16 & 17 Vict. c. 64. s. 4.

CXXX. When any Instrument purporting to be a Demise or Lease, or any other Grant or Assurance reserving Rent, executed or made by any Person entitled under any Lease, is in Construction of Law an Assignment of such Lease, all the Provisions of this Act which, in case such Instrument, Grant, or Assurance had passed less than the whole Term or Estate created by such Lease, would have been applicable to or in respect of the Reversion created under such Instrument, Grant, or Assurance, shall extend and apply to and in respect of the Rent thereby reserved; and all Rights and Interests thereunder vested in Grantor or Assignor, in like Manner as such Provisions would have been applicable to or in respect of such Reversion.

On Application Court may order Sale.

CXXXI. Upon any such Application for a Sale under this Act being made it shall be lawful for the Court to order that a Sale of all or any Part of such Estate or Lease shall be had or effectuated, upon being satisfied that Notice has been duly given to such Persons and in such Manner as the Court shall by any General Orders as aforesaid direct, and upon hearing all such Persons interested as shall appear before the Court, and also to make such Inquiries and such Orders, and give such Directions in relation to the Relief sought, as the Case may require, subject, however, to any General Orders to be made as aforesaid.

Tenancies, &c. to be ascertained. 12 & 13 Vict. c. 77. s. 23.

CXXXII. When any such Order for Sale as aforesaid shall have been made the Court shall, so far as may be deemed necessary for the

Purpose of the Sale, ascertain the Tenancies of the occupying Tenants, and of any Lessees or Under-lessees whose Tenancies, Leases, or Under-leases affect the Estate or Lease, or the Part thereof intended to be sold, and shall give such Notices and make or cause to be made such Inquiries as shall be deemed necessary for ascertaining and securing the Rights of such Tenants, Lessees, or Under-lessees as aforesaid; and such Tenants, Lessees, or Under-lessees shall, at such Times and Places as the Court may by Notices require, produce all Leases, Under-leases, and Agreements in Writing under which such Persons or Tenants occupy or claim to hold, if such Leases, Under-leases, or Agreements, or Counterparts thereof, be in their Possession or Power, and when they occupy or claim to hold under Leases or Agreements in Writing not in their Possession or Power, or under parol Agreements or Lettings, they shall deliver at such Times and Places as aforesaid Particulars of the Terms and Conditions upon and subject to which they occupy or claim to hold; and the Sale shall be made subject to such of the Tenancies, Leases, or Under-leases, ascertained as aforesaid, as it shall appear to the Court that the Estate or Lease liable to be sold is subject to, and such other of the Tenancies, Leases, and Under-leases, ascertained as aforesaid, as shall appear to the Court to have been bonâ fide granted by the Owner or Person in possession, and subject to which it shall appear to the Court the Sale should be made; and, when the Court shall think fit, such Sale shall be made subject to any Leases, Under-leases, or Tenancies, according to any general Description or subject to any Condition concerning any Leases, Under-leases, or Tenancies the Nature of which shall not have been ascertained or shall be disputed; and when the Court shall see fit such Sale shall be made subject to any apportioned Part of any annual Charge affecting the Estate or Lease so sold or any Part thereof.

Arrears of Rent may be included in Sale.
16 & 17 Vict. c. 54. s. 9.

CXXXIII. When any such Sale is to be made under this Act, it shall be lawful to include therein, if to the Court it shall appear convenient so to do, all or any Part of the Arrears of Rent, if any, which may at the Time of the Sale be owing from any Lessees or Tenants subject to whose Leases or Tenancies the Sale is to be made, when such Arrears are subject to any Incumbrance in respect of which the Sale is to be made, or when the Sale shall be made on the Application of the Owner, and in the Conveyance or Assignment to be executed under this Act to assign such Arrears to the Purchaser accordingly; and such Purchaser, his Heirs, Executors, Administrators, or Assigns, shall, after such Assignment of the said Arrears, have for the Recovery and in respect of the Nonpayment thereof the same Rights and Remedies which the Person or Persons who would have been entitled to such Arrears would have possessed if no such Assignment thereof nor any Conveyance of such Estate or Lease had been made: Provided always, that in the Disposal of the Purchase Money to arise upon any such Sale it shall be lawful for the Court to entertain the Claim against such Purchase Money of any Person claiming in respect of any Right or Interest in such Arrears.

Conversion of Lease in Perpetuity into Fee-farm Grant. 16 & 17 Vict. c. 64. s. 3.

CXXXIV. Where the Court shall order the Sale of any Lease in Perpetuity it may, if it shall think it expedient so to do, cause Notice to be given to the Owner or other Persons interested in the Reversion, or any Person on behalf of such Owner or other Persons, and may thereupon proceed to convert such Lease in Perpetuity into a Fee-farm Grant, according to the Principles prescribed in the "Renewable Leasehold Conversion Act," but their Procedure in relation thereto shall be according to the General Rules and Practice of the said Court; and in case such Conversion shall be ordered, the said Court shall have Power to convey the Land included in such Lease to the Purchaser in Fee, subject to the Fee-farm Rent, ascertained as aforesaid, and to such Exceptions, Reversions, Covenants, and Clauses as shall be in conformity with the original Lease and the Provisions of the "Renewable Leasehold Conversion Act;" and thereupon the Owner for the Time being shall have the same Rights and Remedies against the Purchaser, his Heirs, Executors, Administrators, and Assigns, and against the Land, by Action, Distress, Entry, or otherwise, in respect of such Rent, and of any Exceptions, Reservations, Covenants, and Clauses contained in the said Deed, as belong by Law to the Owner of any Fee-farm Rent created under the said Acts.

Separate Applications may be included in One Sale. 12 & 13 Vict. c. 77. s. 36.

CXXXV. When there shall be separate Applications to the Court for Sale of Two or more Estates, or of Two or more Leases, or of Estates and Leases in the same Land, or there shall be such Applications for Sales of different undivided Shares of any Estate or Lease, it shall be lawful for the Court, when it shall see fit so to do, to include, with the Consent of the Persons by whom such respective Applications may be made or prosecuted, and of any other Persons whose Consent the Court may think fit, under the Circumstances of the Case, to require, in the same Sale, upon such Terms as it may think fit, such Estates, or such Leases, or such Estates or Leases, or such several undivided Shares as aforesaid; and when there shall be separate Applications for Sales of any Estate in Land, and of any Lease in other Land, or of Estates or Leases in different Lands, it shall be lawful for the Court, where, from the Lands being intermixed or from other Circumstances, it shall appear convenient so to do, to include, with such Consent as aforesaid, such Estate and Lease, or such Estate or such Leases, in the same Sale, upon such Terms as it may think fit; and where there shall be any such Application for Sale of any Estate or

Two or more Estates, &c. in the same

Land or Lease may be sold together. 16 & 17 Vict. c. 64 s 6.

or Lease, or Part or Share thereof, it shall be lawful for the Court, upon Application of the Owner of any Lease or Under-lease or Estate in Reversion, or other Part or Share or other Estate or Interest whatsoever in the same Land or Lease, (and although such Lease, Under-lease, Part, Share, or Estate in Reversion, or other Estate or Interest, be not liable to be sold,) or upon the Application of any Incumbrancer or other Person entitled to have a Sale of such Lease, Under-lease, Part or Share, Estate or Interest, to include the same, upon such Terms as it may think fit, in the Sale of the Estate or Lease or Part thereof so proposed or ordered to be sold as aforesaid; and all the Provisions of this Act applicable to any Estate or Lease ordered to be sold, and to any Incumbrancer thereon, and to the Conveyance thereof, shall, so far as Circumstances will admit, extend and be applicable to every such Lease, Under-lease, Part, Share, Estate in Reversion, or other Estate or Interest to be so included in the Sale; and in every such Case as aforesaid the Court shall apportion the Purchase Money and Expenses as it may see fit.

Form of Conveyance. 12 & 13 Vict. c. 77. s. 24.

CXXXVI. The Conveyance of any Estate or Lease, or Part thereof, sold under any Decree or Order of the Court, shall be under the Seal of the Court, and shall be signed by the Chancellor or the Master of the Rolls, or One of the Vice-Chancellors, and the Execution by any other Persons of such Conveyance shall be unnecessary; and such Conveyance shall express or refer to the Tenancies, Leases, and Under-leases, if any, and Charge, if any, subject to which the Sale is made, and may be in the Form contained in the Schedule to this Act, or to the like Effect, with such Limitation of Uses and other Additions or Variations as with the Approval of the Court the Purchaser may direct; and when the Estate or Lease to be sold shall be subject to any Right, Title, or Estate in Dower, or any other Right or Title, or to any Condition, contingent or executory Limitation, springing or shifting, Use, or in any other Way qualified, the Conveyance shall express such Right, Title, Estate, Condition, Limitation, Use, or other Qualification to which such Estate is subject.

Effect of Conveyance on Land and Lease conveyed. 12 & 13 Vict. c. 77. s. 27.

CXXXVII. Every such Conveyance executed as aforesaid upon the Sale of an Estate in Lands shall be effectual to pass the Fee-simple and Inheritance of or other Estate in the Lands thereby expressed to be conveyed, subject to such Tenancies, Leases, and Under-leases as shall be expressed or referred to therein as aforesaid, and subject to any such Right, Title, Estate, Condition, Limitation, Use, or Qualification as shall be therein expressed as aforesaid, but, save as aforesaid, and as herein-after provided, discharged from all former and other Estates, Rights, Titles, Charges, and Incumbrances whatsoever of Her Majesty, Her Heirs and Successors, and of all other Persons whomsoever, affecting the Fee Simple or other Estate so expressed to be conveyed; and every such Conveyance executed as aforesaid upon the Sale of any Lease shall be effectual to pass the Estate created or agreed to be created by such Lease, and then remaining unexpired, or such Estate therein as shall be thereby expressed to be conveyed, subject to the Rents and Covenants annexed to the Reversion expectant on the Determination of such Lease, and to such Tenancies, Leases, or Under-leases as shall be expressed or referred to in such Conveyance, and to such Right, Title, Estate, Condition, Limitation, Use, or Qualification as shall be therein expressed as aforesaid, but, save as aforesaid, and as herein-after provided, discharged from all other Rights, Titles, Charges, and Incumbrances whatsoever affecting the Leasehold Estate or Interest thereby expressed to be conveyed: Provided that when any Estate or Lease or Part thereof shall be sold, subject to any annual Charge or apportioned Part thereof, such annual Charge or such apportioned Part thereof only, as the Case may be, shall remain and be charged on and payable out of such Estate or Lease or Part thereof, as in the Conveyance shall be expressed.

Conveyance not to affect Easements, Tithes, &c. 12 & 13 Vict. c. 77. s. 28.

CXXXVIII. Provided always, That any such Conveyance as aforesaid shall not prejudice or affect any Right of Common, or any Right of Way or other Easement, or any Rentcharge in lieu of Tithes, Crown Rent or Quitrent, charged upon or issuing out of any Land, or any Charge made by virtue of an Act passed in the Fifth and Sixth Years of Her Majesty, Chapter Eighty-nine, and the Acts amending the same, or by virtue of an Act passed in the Tenth and Eleventh Years of Her Majesty, Chapter Thirty-two, save when the Court shall think fit, with the Consent of the Owner, to redeem the Crown Rents or Quitrents, or to pay off or redeem the Charges under the said Acts or either of them, and shall express in such Conveyance that the Land conveyed thereby is so conveyed, discharged of all Crown Rents or Quitrents or Charges under the said Acts or either of them, as the Case may be, and in such Case such Land shall be so discharged accordingly.

Sec. 34.

Effect of Conveyance as regards Reversions on Leases, &c. 16 & 17 Vict. c. 64. s. 5.

CXXXIX. Every such Conveyance so executed, subject to any Lease, Under-lease, or Tenancy, shall be deemed to afford conclusive Proof that the Estate or Interest purporting to be conveyed thereby is the Reversion expectant upon such Lease, Under-lease, or Tenancy; and it shall not be necessary, in any Proceedings at Law or in Equity arising out of or connected with such Lease, Under-lease, or Tenancy, or in any Pleadings therein, to allege or prove the Title of such Reversion prior to the said Conveyance; and the Person to whom such Conveyance shall be made, his Heirs, Executors, Administrators, and Assigns, and every One of them, shall and may have and enjoy like Advantages against the Lessees, Under-lessees, and Tenants, their Heirs, Executors, Administrators, Assigns, and Under-tenants, and against all other Persons in possession or occupation of the Land comprised in such Conveyance, by Distress or by Entry, for Nonpayment of Rent, or for doing Waste or other Forfeiture, and also shall and may have and enjoy like Advantages and Remedies by Action for not performing other Conditions, Covenants, and Agreements contained in such Lease or Under-lease, or in the parol Agreement for such Tenancy, against the said Lessees, Under-lessees, and Tenants, their Heirs, Executors, Administrators, and Assigns, as the Person granting such Lease or Under-lease, or as the Landlord entering into an Agreement for such Tenancy, or his Heirs, Executors, Administrators, or Assigns, ought to have had and enjoyed at any Time or Times, in like Manner and Form as if the Reversion in such Land expectant on such Lease, Under-lease, and Tenancy had remained or continued in such Person granting such Lease or Under-lease, or as a Landlord entering into such Agreement.

Charges not Incumbrances may be paid off, &c. 12 & 13 Vict. c. 77. s. 34.

CXL. It shall be lawful for the Court, when the Court shall think fit, to pay to any Person entitled to any annual or other Charge, not being an Incumbrance liable to be paid off out of the Produce of the Sale, who may consent to accept the same, a gross Sum in discharge or by way of Redemption thereof or of a Part thereof; and where a Part only of any Estate or Lease subject to any Incumbrance or Charge is sold, it shall be lawful for the Court to charge the Part not sold with such Incumbrance or Charge, or an apportioned Part thereof, in exoneration of the Money arising from the Sale, and to enable and authorize Persons to release the Money arising from the Part sold from any Incumbrance or Charge, or to relinquish their Claim on such Money in respect thereof, without impairing or affecting such Incumbrance or Charge as to the remaining Part of the Estate or Lease originally charged.

Rents may be apportioned. 12 & 13 Vict. c. 77. s. 37.

CXLI. If any Estate or Lease to be sold under this Act shall be subject to a Lease or Under-lease for Years or Lives, comprising other Land at an entire Rent, it shall be lawful for the Court to apportion the Rent between the Land comprised in the Estate or Lease to be sold and the Remainder of the Land subject to such Rent; and when it is intended to sell under this Act a Part only of any Lease it shall be lawful for the Court, when it shall think fit, and, having regard to the Rights and Interest of the Owner of the Reversion, it shall appear just so to do, to apportion the Rent reserved by such Lease between the Land to be sold and the Remainder of the Land; and the Court shall direct Notices of any such intended Apportionment as aforesaid to be given to such Persons and in such Manner as it shall think fit, and shall hear such Parties as shall apply in relation thereto; and after such Apportionment, and after the Sale shall be completed, the Owners of the Reversion in the respective Lands shall be bound by such Apportionments, and have the like Remedies for the apportioned Rents against the Lands out of which the same shall be payable, and the Owners and Occupiers thereof respectively, as are subsisting for the entire Rent before such Apportionment; and all the Covenants, Conditions, and Agreements of every Lease or Under-lease, except as to the Amount of Rent to be paid, shall, as regards the apportioned Parts, remain in force in the same Manner as they would have done in case no such Apportionment had taken place.

Guardians, &c. of Persons under Disability may apply, &c. 12 & 13 Vict. c. 77. s. 38.

CXLII. When any Person who, if not under Disability, might have made any Application, given any Consent, done any Act, or been a Party to any Proceeding under this Act, shall be a Minor, Idiot, Lunatic, or married Woman, the Guardian, Committee of the Estate, or Husband of such Person may respectively make such Applications, give such Consent, do such Acts, and be a Party to such Proceedings as such Persons respectively, if free from Disability, might have made, given, done, or been party to, and shall otherwise represent such Person for the Purposes of this Act; but a married Woman entitled for her separate Use, with or without Power of Anticipation, shall for the Purposes of this Act be deemed a Femme Sole.

Partition. 12 & 13 Vict. c. 77. s. 43.

CXLIII. When any Estate or Lease shall be held in undivided Shares, the Court, on the Application of any Party interested in any such undivided Share, may, if it thinks fit, make an Order for a Partition of such Estate or Lease, having first caused Notices to be given to the Owner or Owners of the other undivided Share or Shares of the same Estate or Lease as it may think fit, and hearing such Parties interested in the respective Shares as may apply, and making or causing to be made such Inquiries as it may deem necessary; and in a Map or Plan to be annexed to such Order shall be shown the Part allotted in Severalty in respect to each of the undivided Shares in such Estate or Lease, and the Part so allotted in Severalty in respect of any undivided Share by any such Order as aforesaid shall, without any Conveyance or other Assurance in relation thereto, go and enure to and upon the same Uses and Trusts, and be subject to the same Conditions, Charges, and Incumbrances, as the undivided Share in respect of which the same shall be so allotted would have stood limited or been subject to in case such Order had not been made; and in the Case of an Application for a Sale the like Order for a Sale of the Part allotted in respect of the undivided Share to which the

Application for the Sale shall relate may be made, and the like Proceedings had in relation to such Sale, as if the Application for a Sale had been in respect of the Part so allotted as aforesaid.

Apportionment of Rent reserved on Leases of which Portion is Ordered.
12 & 13 Vict. c. 77. s. 43.

CXLIV. When any such Order as aforesaid shall be made for the Partition of any Lease, it shall be lawful for the Court to make in such Order an Apportionment of the Rent reserved and payable under such Lease; and after such Order the Owner of the Reversion in the respective Parts of the Land comprised in such Lease shall be bound by such Apportionment, and shall have the like Remedies for the apportioned Rents against the respective Parts out of which the same shall be payable, and against the Lessees, Under-lessees, or Tenants holding such respective Parts, as were subsisting for the entire Rent before such Partition and Apportionment; and all the Covenants, Conditions, and Agreements of every such Lease, except as to the Amount of Rent to be paid, shall, as regards the respective Parts allotted on such Partition, and the apportioned Parts of the Rent, remain in force as against the respective Lessees and other Persons to whom under such Partition such respective Parts shall be allotted.

Exchange.
12 & 13 Vict. c. 77. s. 44.

CXLV. It shall be lawful for the Owner of any Estate or Lease who shall have entered into any Contract for the Exchange of any such Estate or Lease for any other Estate or Lease which the Owner thereof may be willing to give in Exchange to apply to Chancery for such Exchange, and thereupon the Court may make or cause to be made such Inquiries as it may think fit for ascertaining whether such Exchange would be beneficial to the Persons interested in the respective Estates and Leases, and cause such Notices to be given to such Persons so interested as it may think fit; and if on making such Inquiries, and hearing such Persons so interested as may apply, the Court shall be of opinion that such Exchange would be beneficial, and that the Terms thereof, as proposed, or as modified, with the Consent of such Owner as aforesaid, are just and reasonable, it may make an order for such Exchange accordingly; and in a Map or Plan to be annexed to such Order shall be shown the Lands comprised in the Estates or Leases so respectively given and taken in Exchange under such Order; and the Estate or Lease taken upon such Exchange under such Order shall, without any Conveyance or other Assurance in relation thereto, go and enure to and upon the same Uses and Trusts, and be subject to the same Conditions, Charges, and Incumbrances, as the Estate or Lease given on such Exchange would have stood limited or been subject to in case such Order had not been made; and when an Application shall have been made for the Sale of any Estate or Lease so given in Exchange the

PART V.

Sale of Real Estate.

like Order for a Sale may be made in respect of the Estate or Lease taken in Exchange for any Estate or Lease to which the Application for a Sale shall relate, and the like Proceedings had in relation to such Sale, as if the Application for a Sale had been in respect of the Estate or Lease so taken in Exchange.

Lands intermixed may be divided into convenient Parcels. 12 & 13 Vict. c. 77. s. 47.

CXLVI. It shall be lawful for the Court, upon the Application of any Number of Persons who shall be separately Owners of Parcels of Land so intermixed or divided into Parcels of inconvenient Form or Quantity that the same cannot be cultivated or occupied to the best Advantage, but forming together a Tract which may be divided into convenient Parcels, and who shall desire to have the whole of such Tract divided into convenient Parcels to be allotted in lieu of the old Parcels, to make or cause to be made such Inquiries as the Court may think fit for ascertaining whether such proposed Division and Allotment would be beneficial to the Persons interested in such Lands; and in case the Court should be of opinion that the proposed Division and Allotment would be beneficial, it shall make an Order for the Division and Allotment thereof accordingly, with a Map or Plan thereunto annexed, in which shall be specified as well the Parcels in which the several Persons on whose Application such Order shall have been made were respectively interested before such Division and Allotment as the several Parcels attached to them respectively by such Order; and the Parcels of Land taken under such Division and Allotment shall go and enure to and upon the same Uses and Trusts, and be subject to the same Conditions, Charges, and Incumbrances, as the several Lands which the Persons taking the same shall have relinquished or lost in such Division would have stood limited or been subject to in case such Order had not been made.

No Order of Partition, &c. without Notice. 12 & 13 Vict. c. 77. s. 48.

CXLVII. Provided always, That no such Order of Partition or Exchange or of Division and Allotment as aforesaid shall be made by the Court until such Notices by Advertisement in such public Newspaper or Newspapers as the Court shall direct shall have been given of such proposed Partition, Exchange, or Division and Allotment, and *Three* Calendar Months shall have elapsed from the Publication of the last of such Advertisements; and in case, before the Expiration of such *Three* Calendar Months, any Person entitled to any Estate in or to any Charge upon any Estate or Lease included in such proposed Partition or Exchange, or any Land included in such proposed Division and Allotment, shall have given Notice in Writing to the Court of his Dissent from such proposed Partition, Exchange, or Division or Allotment (as the Case may be), the Court shall not make an Order for such Partition, Exchange, or Division and Allotment unless such Dissent shall be withdrawn, or it shall be shown to the

Court that the Estate or Charge of the Party so disputing shall have ceased, or that such Estate or Charge is not an Estate or Charge in respect of which he would be entitled in Equity to prevent such Partition, Exchange, or Division and Allotment; but no such Order as aforesaid shall be in anywise liable to be impeached by reason of any Infirmity of Estate or Defect of Title of the Person on whose Application the same shall have been made.

Conveyance to be conclusive Evidence of Application, &c. 12 & 13 Vict. c. 77. s. 49.

CXLVIII. Every Conveyance executed in the Manner prescribed by this Act, and every Order for Partition or for Exchange or for Division and Allotment made by the Court, shall for all Purposes be conclusive Evidence that every Application, Proceeding, Consent, and Act whatsoever which ought to have been made, given, and done previously to the Execution of such Conveyance or Assignment, or the making of such Order respectively, has been made, given, and done by the Persons authorized to make, give, and do the same, and that the Court had Jurisdiction to execute such Conveyance and Assignment, and to make such Order respectively, and no such Conveyance, Assignment, or Order shall be impeached by reason of any Informality therein.

PART VI.

Sales of Settled Estates.

Application may be made for Sale of Settled Estates.

CXLIX. And whereas it is expedient that the Court of Chancery should have Power in certain Cases to authorize Sales of Settled Estates, where such Sales would be proper for the beneficial Administration of the Estate, and consistent with a due Regard for the Interests of all Parties entitled under the Settlement: Be it therefore enacted, That any Person entitled to the Possession or to the Receipt of the Rents and Profits of any Settled Estates for a Term of Years determinable with his Life, or the Life or Lives of any other Person or Persons, or for an Estate for Life or any greater Estate, may apply to the Court to exercise the Powers conferred by this Part of this Act.

Court may authorize Sales of Settled Estates, and of Timber.

CL. It shall be lawful for the said Court, on any such Application, if it shall deem it consistent with a due Regard for the Interests of all Parties entitled under the Settlement, and subject to the Provisions in this Part of this Act contained, from Time to Time to authorize a Sale of the whole or any Parts of any Settled Estates, or of any Timber (not being ornamental Timber) growing on any Settled Estates, and every such Sale shall be conducted in such Manner as the Court shall by any General Orders direct.

PART VI.

Sales of Settled Estates.

Land may be sold, reserving a Fee-farm Rent.

CLI. Upon the Sale of the whole or any Part of any Settled Estate, it shall be lawful for the Court, if it shall see fit, to allow any Part of the Consideration to be a Rent issuing out of such Estate, and to be secured and settled in such Manner as the Court shall approve.

With whose Consent such Application to be made.

CLII. Subject to the Exception contained in the next Section, every Application to the Court under this Part of this Act must be made with the Concurrence or Consent of the following Parties; namely,

Where there is no Tenant in Tail under the Settlement in existence of full Age, then the Parties to concur or consent shall be all the Persons in existence having any beneficial Estate or Interest under or by virtue of the Settlement, and also all Trustees having any Estate or Interest on behalf of any unborn Children:

And where there is a Tenant in Tail under the Settlement in existence, and of full Age, then the Parties to concur or consent shall be such Tenant in Tail, and all Persons in existence having any beneficial Estate or Interest under or by virtue of the Settlement prior to the Estate of such Tenant in Tail, and all Trustees having any Estate or Interest on behalf of any unborn Children prior to the Estate of such Tenant in Tail.

Petition may be granted without Consent.

CLIII. Provided nevertheless, That it shall be lawful for the Court, if it shall think fit, to give Effect to any such Petition, subject to and so as not to affect the Rights, Estate, or Interest of any Person (not being a Tenant in Tail) whose Consent or Concurrence has been refused or cannot be obtained, or whose Rights, Estate, or Interest ought in the Opinion of the Court to be excepted.

Notice of Application to be served on all Trustees, &c.

CLIV. Notice of any Application to the Court under this Part of this Act shall be served on all Trustees who are seised or possessed of any Estate in trust for any Person whose Consent or Concurrence to or in the Application is hereby required, and on any other Parties who in the Opinion of the Court ought to be so served, unless the Court shall think fit to dispense with such Notice.

Notice of the Exercise of Powers to be given by the Court.

CLV. The Court shall direct that some sufficient Notice of any Exercise of any of the Powers conferred on it by this Part of this Act shall be placed on the Settlement or on any Copies thereof, or otherwise recorded in any way it may think proper, in all Cases where it shall appear to the Court to be practicable and expedient, for preventing Fraud or Mistake.

Court may appoint Trustees to receive and apply Monies arising from Sales.

CLVI. All Money to be received on any Sale effected under the Authority of this Part of this Act may, if the Court shall think fit, be paid to any Trustees of whom it shall approve, or otherwise the same shall be paid into the Bank of Ireland to the Account of the Accountant General of the Court of Chancery; and such Money shall be applied to some One or more of the following Purposes; namely,

The Discharge of any Incumbrance affecting the Hereditaments in respect of which such Money was paid, or affecting any other Hereditaments settled therewith; or

The Purchase of other Hereditaments to be settled in the same Manner as the Hereditaments in respect of which the Money was paid; or

The Payment to any Person becoming absolutely entitled.

Trustees may apply Monies, in certain Cases, without Application to Court.

CLVII. The Application of the Money in manner aforesaid may, if the Court shall so direct, be made by the Trustees (if any) without any Application to the Court, or otherwise upon an Order of the Court upon the Petition of the Person who would be entitled to the Rents and Profits of the Land if the Money had been invested in the Purchase of Land.

Until Application, Money to be invested in Exchequer Bills, &c.

CLVIII. Until the Money can be applied as aforesaid, the same shall, if the Court shall so order, be from Time to Time invested in the Public Funds, and the Interest or Dividends to be derived therefrom shall be paid to the Person who would have been entitled to the Rents and Profits of the Land if the Money had been invested in the Purchase of Land, or to his personal Representatives.

Court may exercise Powers, although no Provision in Settlement.

CLIX. The Court shall be at liberty to exercise any of the Powers conferred on it by this Part of this Act, whether the Court shall have already exercised any of the Powers conferred by this Part of this Act in respect of the same Property, or not; but no such Powers shall be exercised if an express Declaration or manifest Intention that they shall not be exercised is contained in the Settlement, or may reasonably be inferred therefrom, or from extrinsic Circumstances or Evidence: Provided always, that the Circumstance of the Settlement containing Powers to effect similar Purposes shall not preclude the Court from exercising any of the Powers conferred by this Part of this Act, if it shall think that the Powers contained in the Settlement ought to be extended.

Costs.

CLX. It shall be lawful for the Court, if it shall think fit, to order that all or any Costs or Expenses of all or any Parties of and incident to any Application and Sale under this Part of this Act shall be paid out of the Produce of such Sale, such Costs and Expenses to be taxed as the Court shall direct.

Power to make General Orders.

CLXI. The Court shall from Time to Time make General Rules and Orders for carrying the Purposes of this Part of this Act into effect, and for regulating the Times and Form and Mode of Procedure, and generally the Practice of the Court in respect of the Matters to which this Part of this Act relates; and such Rules and Orders may from Time to Time be rescinded or altered; and all such Rules and Orders shall take effect as General Orders of the Court.

A married Woman applying to the Court to be examined apart from her Husband respecting the Nature of her Application.

CLXII. Where a married Woman shall apply to the Court, or consent to an Application to the Court, under this Part of this Act, the Court may direct, if it so thinks fit, that she shall first be examined apart from her Husband touching her Knowledge of the Nature and Effect of the Application, and it shall be ascertained that she freely desires to make or consent to such Application; and such Examination shall be made whether the Hereditaments which are the Subject of the Application shall be settled in trust for the separate Use of such married Woman independently of her Husband, or not; and no such Application or Consent shall be deemed a Breach of any Restraint on Anticipation.

Married Women to be examined by the Court, &c.

CLXIII. The Examination of such married Woman shall be made either by the Court or by some Solicitor duly appointed by the Court for that Purpose, who shall certify, under his Hand, that he has examined her apart from her Husband, and is satisfied that she is aware of the Nature and Effect of the intended Application, and that she freely desires to make or consent to the same.

Married Women under Age.

CLXIV. Subject to such Examinations as aforesaid, married Women may make or consent to any Applications, whether they be of full Age or Infants.

No Equity to compel any one to apply to the Court.

CLXV. Nothing in this Act shall be construed to create any Obligation at Law or in Equity on any Person to make or consent to any Application to the Court under this Part of this Act.

To what Settlements this Act to extend.

CLXVI. The Provisions of this Part of this Act shall extend to all Settlements, whether made before or after it shall come in force.

Sale to be carried out under Part V. of Act.

CLXVII. When the Court shall have authorized a Sale under this Part of this Act, such Sale shall be carried out and effectuated under Part V. of this Act; and all the Provisions relating to Sales, and the Conveyance in Part V. contained, shall apply to the Sale under this Part

Part of this Act, and the Court shall have and exercise the same Authority and Jurisdiction with respect to any Land or Lease to be sold under this Part of this Act as are contained in Part V. with respect to any Land or Lease to be sold under that Part of this Act.

PART VII.

Abolition of Incumbered Estates Court.

PART VII.

Abolition of Incumbered Estates Court.

CLXVIII. Whereas an Act was passed in the Sessions of Parliament holden in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, intituled "An Act further to facilitate the Sale and "Transfer of Incumbered Estates in Ireland:" And whereas, under the Provisions of the said Act, certain Commissioners, with a Secretary and other Officers, were duly appointed for the Execution of the said Act, and it was by the Fifth Section of the said Act enacted, that no Commissioner, Secretary, or other Officer appointed as aforesaid should hold his Office for a longer Period than Five Years next after the passing of the said Act, and thenceforth until the End of the then next Session of Parliament: And whereas by several Acts since passed the said Period hath been further extended, and the Time for making Application for a Sale under the said first-recited Act hath been extended to Three Years from the Twenty-eighth Day of July One thousand eight hundred and fifty-three: And whereas it is expedient that the said Court of the said Commissioners should be discontinued from the *Day of* : Be it therefore enacted, That every such Commissioner, Secretary, and other Officer as aforesaid shall hold his Office till the said *Day of* and no longer, and on and after the said *Day of* all the Power, Authority, and Jurisdiction conferred on or committed to the said Commissioners under the said recited Acts or any of them shall cease and determine, anything in the said Acts, or any of them, to the contrary notwithstanding.

12 & 13 Vict. c. 77.

15 & 16 Vict. c. 67.
16 & 17 Vict. c. 64.
18 & 19 Vict. c. 73.

Commissioners and Officers to cease to hold Office.

CLXIX. All Suits which on the said *Day of* shall be pending in the said Court of the said Commissioners, with all the Proceedings therein, save as herein-after excepted, shall be by force of this Act transferred to the Court of Chancery in Ireland, there to be carried on, prosecuted, dealt with, and decided according to the Practice of that Court, in the same Manner in every respect as if such Suits had been originally commenced in the said Court of Chancery, except so far as the said Court of Chancery may think it expedient to adopt, for the Purposes of such transferred Suits or any of them, the Rules and Practice of the said Court of the said Commissioners, to

Proceedings transferred to Chancery.

which End the Court of Chancery shall for the Purposes of such Suits have all the Powers and Jurisdiction possessed by the said Court of the said Commissioners; and the Judge to whose Court each such transferred Suit shall from Time to Time be attached shall have as full Power to hear and determine Appeals from the Master of the said Court of the said Commissioners as the said last-mentioned Court or any Commissioner thereof would have had.

Appeals to Commissioners may be heard by Chancellor.

CLXX. In case upon the said *Day of* any Appeal in any of the Suits so hereby transferred from any Order or Ruling of any One of the said Commissioners shall have been, pursuant to the Provisions of the said recited Acts, or the Course and Practice of the said Court of the said Commissioners, preferred to the full Court of the said Commissioners, and the same, as to the whole or any Part thereof, shall not on or before the said *Day of* have been determined, it shall be lawful for the Court of Appeal in Chancery to hear and determine the said Appeal, and to make such Rule, Order, or Decree therein as shall appear right and fitting in the Premises; and the Order of the said Court of Appeal shall be subject to Appeal to the House of Lords.

Judgments on Appeals heard by Commissioners may be given to Registrar within Six Weeks.

CLXXI. If upon the said *Day of* any Matter or Thing which shall have been heard before the full Court of the said Commissioners, or any One of the said Commissioners, shall be standing for Judgment, such Court or Commissioner may, at any Time within Six Weeks from the said *Day of* , give in to the Registrar of the Court of Chancery a written Judgment therein, signed by the Majority of such Court or by such Commissioner; and a Decree or Order, as the Case may require, shall be drawn up in pursuance of such Judgment; and every such Decree or Order shall have the same Force and Effect as if it had been drawn up on the Day on which the same shall be delivered to the Registrar, in pursuance of a Judgment of the Judge of the Court of Chancery to whose Court shall be attached the Suit in which such Decree or Order shall have been made.

Privy Council may determine pending Appeals.

CLXXII. In case upon the said *Day of* any Appeal in any of the Matters so hereby transferred from any Order or Ruling of the said Court of the said Commissioners shall have been, pursuant to the Provisions of the said recited Acts or the Course and Practice of the said Court, preferred to the Privy Council, it shall be lawful for the said Privy Council to hear and determine the same, and to make such Rule, Order, or Decree therein as if this Act had not passed, anything herein contained to the contrary notwithstanding;

PART VII.

Abolition of Incumbered Estates Court.

standing; and such Rule, Order, or Decree shall be binding and conclusive as if this Act had not been passed, and such Suit had not been transferred to the said Court of Chancery; but such Suit, and all Proceedings therein, shall in all other respects and for all other Purposes stand and be considered as transferred to the said Court of Chancery, in like Manner as all other Suits and the Proceedings therein so hereby transferred as aforesaid.

Stock, &c. standing to Credit of Commissioners to vest in Accountant General.

CLXXIII. On the said *Day of* all Stocks, Funds, Annuities, Cash, and Securities whatsoever which shall then be standing in the Names or to the Credit of the said Commissioners in the Books of the Bank of Ireland shall, on the said *Day of* , become by force of this Act vested in the Accountant General of the said Court of Chancery for the Time being, in trust to attend the Orders of the said Court of Chancery, and without any Act or Deed whatsoever to be done or executed by the said Commissioners, and shall and may be proceeded upon by and in the Name of the Accountant General of the said Court of Chancery, in right of his Office, by any Action or Suit at Law or in Equity or in any other Manner, as the same might have been proceeded on by or in the Name of the said Commissioners, and shall be applicable to all such Purposes as the same were applicable to, except when otherwise directed by this Act.

Stock, &c. to be carried in Bank to Credit of Accountant General.

CLXXIV. All such Funds, Stocks, Annuities, Cash, and Securities as shall be on the said *Day of* standing in the Name or to the Credit of the said Commissioners in the Books of the Bank of Ireland shall on the said *Day of* be carried by the proper Officers of the said Bank to the Credit of the Accountant General of the said Court of Chancery in the Books of the said Bank, but without altering the several Titles distinguishing the respective Accounts or Credits; and such Stocks, Funds, Annuities, Cash, and Securities shall be held in trust to attend the Orders of the said Court of Chancery, anything in any Act of Parliament for the Creation or Regulation of any such Stocks, Funds, Annuities, Cash, or Securities, or any other Acts, to the contrary thereof notwithstanding: Provided, however, that the Governor and Company of the Bank of Ireland shall, notwithstanding such Transfer, continue to act on the Orders of the said Commissioners theretofore duly made, and to make such Payments of Money and Transfers of Securities as they have been duly ordered by the Commissioners to make.

Commissioners to make up

CLXXV. The said Commissioners and their Officers shall on the said *Day of* make up

Accounts with Accountant General.

with the Accountant General of the Court of Chancery of all Stocks, Funds, Annuities, Cash, or Securities which shall be standing in the Name or to the Credit of the said Commissioners in the Books of the Bank of Ireland, and shall also on the said *Day of* make out a true and perfect Schedule of all Cash which shall have been paid into the said Bank of Ireland to the Credit of the said Commissioners, and which shall not have been invested in any Stocks, Funds, Annuities, or Securities; and all such Stocks, Funds, Annuities, and Cash which shall have become so vested in the Accountant General shall be entered, in such Manner as the Court shall by any General Orders direct, in the Books of such Accountant General, to be disposed of as the Court shall order.

No Money in Matters transferred liable to Usher's Poundage.

CLXXVI. No Payment or Transfer of any Sum of Money to be at any Time made out of any of the Cash or Funds so to be transferred as aforesaid, or out of any Cash or Funds to be at any Time brought into the said Court of Chancery, or arise or be produced in or by any Matter transferred to the said Court by force of this Act as aforesaid, shall be subject or liable to the Payment of Poundage to the Usher of the said Court of Chancery, any Law or Statute to the contrary notwithstanding.

Offices of Incumbered Estates Court abolished. Books, &c. to be transferred.

CLXXVII. On the said *Day of* the Offices of the said Commissioners, and of their Secretary and other Officers, shall be discontinued; and all Petitions, Affidavits, Orders, Reports, and other Proceedings of the said Court of the said Commissioners, and all Minute and Account Books, Books of Rulings, and all other Books and Documents relating to the Proceedings of the said Court, or lodged in the said Court, and all Abstracts of Title, Schedules, Deeds, Muniments, and other Documents lodged in the said Court, shall on the said *Day of* , or as soon after as conveniently may be, be delivered by the several Officers of the said Court having Custody of the same to such Person or Persons as shall be appointed by the Master of the Rolls, by Warrant under his Hand, approved and countersigned by the Lord Chancellor, to receive and take charge of the same; and from and after such Delivery the said Petitions, Affidavits, Orders, Reports, Books of Rulings, and other Proceedings shall be deemed Records of the Court of Chancery in the Custody of the Master of the Rolls, as fully as if the same had originally been like Records of the said Court of Chancery.

Copy of certified Document to be received in Evidence.

CLXXVIII. Where, under the Provisions of the said recited Act of the Twelfth and Thirteenth Years of Her Majesty's Reign, or any Act amending or continuing the same, a Copy of a Document purporting to be sealed with the Seal of the Commissioners is receivable in Evidence without further Proof, a Copy of such Document, certified by such Officer of the Court of Chancery as may by any General Order be authorized to give such Certificate, shall be receivable in Evidence without any further Proof; and a Copy of any Order of the Commissioners, certified to the High Court of Chancery in England by such Officer as aforesaid, may be enrolled and enforced in the said Court in the same Manner as if a Copy of such Order had been certified to the said Court under the Seal of the Commissioners.

Chancery to have Power to reverse, &c. Orders of Commissioners.

CLXXIX. The Chancellor, the Master of the Rolls, and the Vice-Chancellors respectively shall from and after the said *Day of* have such and the same Power to review, reverse, discharge, or alter Rules or Orders of the said Commissioners or any of them, and of the said Court of the said Commissioners, in the Suits hereby transferred to Chancery, as they would have had if the said Rules or Orders had been made respectively in Matters pending in Chancery: Provided always, that in entertaining and determining such Applications to review, reverse, discharge, or alter such Rules or Orders the Chancellor, Master of the Rolls, and Vice-Chancellors respectively may, if they shall so think fit, have regard to the Regulations, Conditions, and Periods under and within which such Applications could or should have been made in the Court of the said Commissioners under the said recited Acts relating to the said Court, or the Course and Practice of the said Court: Provided also, that any Decree or Order of the Chancellor, Master of the Rolls, or Vice-Chancellors, reversing, discharging, or altering any such Rule or Order, shall be subject to Appeal according to the Course and Practice of the said Court of Chancery.

All Matters to be transferred to Chancery.

CLXXX. All Suits pending in the Court of the said Commissioners, and transferred to Chancery by force of this Act, shall be divided by the Court, and referred to the Chancellor, Master of the Rolls, and Vice-Chancellor, or any of them, in such Manner as the Court shall, by any General Order to be made as by this Act provided, direct, and shall thereupon be carried on and dealt with as herein-before provided: Provided always, that no such Suit shall be referred to the Right Honourable Maziere Brady, the present Chancellor, nor to the Right Honourable Thomas Berry Cusack Smith, the present Master of the Rolls, unless they shall respectively consent thereto.

Power to make General Orders.
13 & 14 Vict. c. 51. ss. 3. 11.

CLXXXI. The Court shall, as soon as conveniently may be after the *passing of this Act*, from Time to Time make General Rules and Orders, as by this Act directed, for carrying the Purposes of this Part of this Act into complete Effect in all Things relating to the Transfer of Suits, Proceedings, Documents, and Property from the Court of

PART VII.

Abolition of Incumbered Estates Court.

of the said Commissioners to the Court of Chancery and the Accountant General of the Court of Chancery, and in particular for the Taxation and Allowance of Costs, and with respect to the Time and Manner of arranging the Balances of the said Accountant General with the Bank of Ireland, and for the carrying on and winding up the Suits so transferred to the Court of Chancery.

Officers of Incumbered Estates Court to discharge Duties in Chancery as Chancellor shall direct.

CLXXXII. It shall be lawful for the Court by any General Orders to direct that the Master, Secretary, Registrar, Examiner, and every other Officer of the Incumbered Estates Court (except the Commissioners) who shall not be appointed to any Office under this Act shall, notwithstanding the Abolition of their Offices under this Act, discharge such Duties with respect to the Matters so transferred to Chancery under this Part of this Act, or any other Business pending in the said Court, as the Court shall by any General Orders direct, and shall, during such Time as they shall respectively continue to discharge such Duties as they shall be so directed in that Behalf, continue to receive such Salaries and from the same Funds as they shall respectively have been receiving at the Time of the Abolition of their respective Offices under this Act in respect of the said Offices so abolished; and the Court shall have Power by such General Orders to attach any such Officer to the Court of any particular Judge, and to regulate the Distribution of Business among such Officers, and to provide for the Taxation of Costs by the said Officers or any of them, and in all such and all other Matters to prescribe and regulate the Duties and Powers of the said Officers: Provided always, that the Employment and Salaries of all such Officers under this Section shall cease and determine upon the Day of : Provided also, that it shall be lawful for the Lord Chancellor, at any Time before the said Day, to remove any such Officer from his Employment under this Act.

Compensation to Officers of Incumbered Estates Court.

CLXXXIII. Inasmuch as the Salaries of the said Commissioners of the Incumbered Estates Court, and of the Master and other Officers of the said Court, who shall not be appointed to any Office or Employment under this Act, may determine by reason of this Act before the Day of , on which Day the Offices of the said Commissioners, Master, and other Officers of the said Court would have ceased, pursuant to the said recited Acts, it shall be lawful for the Commissioners of Her Majesty's Treasury and they are hereby required to order and direct that such Sum of Money by way of Compensation shall be paid to the said Commissioners, Master, and other Officers of the said Court respectively whose Salaries shall so determine, and who shall not be appointed to any Office or Employment under this Act, as to the said Commissioners of the Treasury

PART VII.

Abolition of Incumbered Estates Court.

Treasury in their Discretion shall seem just and reasonable, but not in any Case to exceed the Sum which such Person would have been entitled to for his Salary up to the said Day of if his Office had not been abolished; and such Compensation shall be paid out of the same Funds as such Salaries would have been payable out of if this Act had not passed.

PART VIII.

Fees and Stamps.

Existing Stamp Duties on Proceedings abolished, and others substituted.

CLXXXIV. Whereas the Imposition and Collection of Stamps and other Duties and of Fees upon Proceedings in the Court of Chancery in Ireland tend to prevent the Despatch of Business and the due Publicity of the Proceedings in the said Court, and it is expedient that such Stamps and other Duties and Fees should be abolished or reduced, and that the Money to be raised upon such Proceedings should be raised and collected in some less objectionable Manner: Be it therefore enacted, That from and after the coming into operation of this Act, so much of the Act of the Fifth and Sixth Victoria, Chapter Eighty-two, and of the Acts therein recited or referred to, and of every other Act or Acts as imposes or authorizes the Collection of any Stamp or other Duties upon any Affidavits, Affirmations, Answers, Appearances, Bills, Certificates, Charges, Discharges, Commissions, Demurrers, Notices, Decrees, Orders, Rules, Summonses, Notices, Writs, or Process, Reports, Petitions, or other Proceedings, in any Cause or Matter in the said Court, or any Copies of any such Documents or Proceedings, shall be and is hereby repealed; *and in lieu of the Stamp or other Duties imposed by the said Acts on such Proceedings or Copies there shall be granted, raised, levied, and collected, and paid unto Her Majesty, Her Heirs and Successors, in Ireland, for and in respect of the several Proceedings in the said Court of Chancery in Ireland set forth in the Schedule to this Act, the several Sums of Money set forth in the said Schedule.*

5 & 6 Vict. c. 82.

Power to vary, &c. Fees.
15 & 16 Vict. c. 87. s. 6.

CLXXXV. It shall be lawful for the Court, by any General Orders to be made as by this Act directed, to vary, reduce, or abolish all or any of the Fees payable in relation to Proceedings in the said Court, and to substitute One or more Fee or Fees in lieu thereof, *and to direct that all or any of such Fees shall from a Day to be named in such Orders and thenceforth be collected by means of Stamps, to be provided and used in manner herein-after mentioned;* and the Court shall have full Power by any such General Orders from Time to Time to abolish or reduce any such Fees as aforesaid, anything in any Act or Acts relating to such Fees to the contrary notwithstanding.

PART VIII.

Fees and Stamps.

Fees to be collected by Stamps. 15 & 16 Vict. c. 87. s. 7.

CLXXXVI. From and after the Day named in such General Orders, unless and until the Lord Chancellor shall otherwise direct, none of the Fees mentioned in such Orders respectively shall be received in Money, *but by a Stamp denoting the Amount of the Fee which otherwise would be payable; and when any Fee shall be payable in respect of any Document, such Stamp shall, at the Expense of the Party liable to pay the Fee, and in such Manner and under such Regulations as shall be by any General Order directed, be stamped or affixed on the Vellum, Parchment, or Paper on which the Proceedings in respect whereof such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Procceding.*

The Commissioners of Inland Revenue to carry General Orders relating to Fees and Stamps into effect. 15 & 16 Vict. c. 87. s. 8.

CLXXXVII. The Commissioners of Inland Revenue shall from Time to Time, upon Receipt of any General Order in that Behalf, give the necessary Directions for carrying the same into effect, and shall provide everything that shall be necessary for that Purpose, and shall do or cause to be done every thing that shall be necessary for the Receipt and Collection of the Money to be paid for such Stamps; and the said Commissioners shall cause separate and distinct Accounts to be kept of all Sums of Money received or collected by them under the Provisions of any such Order or Orders, and of all Costs, Charges, and Expenses incurred by them or by their Direction in carrying the same into effect; and it shall be lawful for the said Commissioners to pay and to deduct and retain out of such Monies all such Costs, Charges, and Expenses, and also to deduct all Sums of Money repaid on Allowances for spoiled Stamps, and after such Deduction they shall from Time to Time, and in such Manner as the Court shall, by any General Order, direct, pay the Monies so to be received and collected into the Bank of Ireland, to the Credit of the Accountant General of the Court of Chancery, to be placed to the Account there intituled the "Suitors Fee Fund Account."

Provision for Sale of Stamps. 15 & 16 Vict. c. 87. s. 9.

CLXXXVIII. It shall be lawful for the Lord Chancellor to direct any of the Officers of the Court of Chancery whose Duties may be diminished in consequence of the Substitution of Stamps for Money Payments or otherwise under this Act, to act under the Directions of the Commissioners of Inland Revenue in the Sale and Distribution of all or any of the Stamps to be used under this Act: Provided always, that in case it appear to the Lord Chancellor, having Reference to the Duties to be performed by such Officers or any of them, that it is not convenient that they should act as aforesaid in the Sale and Distribution of Stamps, it shall be lawful for the Commissioners of Inland Revenue to appoint Persons for such Sale and Distribution, and to allow to such Persons so to be appointed by them such Discount or Poundage as they may think fit.

Commissioners of Inland Revenue may make Regulations as to Allowance for spoiled Stamps.
15 & 16 Vict. c. 87. s. 10.

CLXXXIX. It shall be lawful for the Commissioners of Inland Revenue from Time to Time to make such Regulations as they shall think fit for the Allowance of such Stamps issued under the Provisions of this Act as may have been spoiled or rendered useless or unfit for the Purpose intended, or for which the Owner may have no immediate Use, or which through Mistake or Inadvertence may have been improperly or unnecessarily used; and such Allowance shall be made either by giving other Stamps in lieu of the Stamps so allowed, or by repaying the Amount or Value to the Owner or Holder thereof, after deducting the Discount or Poundage (if any) allowed on the Sale of Stamps of the like kind.

Commissioners to have Powers in 5 & 6 Vict. c. 82.
15 & 16 Vict. c. 87. s. 11.

CXC. For the Purpose of raising, levying, and collecting the Stamps and other Duties made payable by this Act, the Commissioners of Revenue shall have and be vested with all the Powers and Authorities of the said Act of the Fifth and Sixth Victoria, Chapter Eighty-two, and the Acts therein recited or referred to; and the several Provisions of the said Acts (so far as the same are not inconsistent with this Act) shall be applicable to the Stamps and other Duties to be collected and raised under this Act, and shall be applied and put in execution for collecting and securing the Sums of Money denoted thereby, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relating thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively.

No Document to be received or used unless stamped.
15 & 16 Vict. c. 87. s. 12.

CXCI. No Document which by any such General Orders as aforesaid shall be required to have a Stamp impressed thereon or affixed thereto shall be received or filed, or be used in relation to any Proceeding in the Court of Chancery, or be of any Validity for any Purpose whatsoever, unless or until the same shall have a Stamp impressed thereon or affixed thereto in the Manner directed by such Order: Provided always, that if at any Time it shall appear that any such Document which ought to have had a Stamp impressed thereon or affixed thereto has, through Mistake or Inadvertence, been received or filed or used without having such Stamp impressed thereon or affixed thereto, it shall be lawful for the Lord Chancellor, if he think fit, to order that such Stamp shall be impressed thereon or affixed thereto; and thereupon, when a Stamp shall have been impressed on such Document or affixed thereto, in compliance with any such Order, such Document, and every Proceeding in reference thereto, shall be as valid and effectual as if such Stamp had been impressed thereon or affixed thereto in the first instance.

Part VIII.

Fees and Stamps.

Acts and General Orders shall apply to reduced Fees.

CXCII. When any of the Fees now payable shall be reduced as aforesaid the Provisions of all Acts and General Orders relating to the original Fees, save where inconsistent with this Act or the General Orders to be made as by this Act directed, shall apply to such reduced Fees.

Act not to extend to Fees in Bankruptcy.

CXCIII. Nothing in this Act contained shall apply to the Stamp Duties or Fees payable in the Bankrupt Court, or to abolish the Stamp Duties or Fees relating to Commissions of Bankruptcy.

Per-centage on Purchase Money to be paid.

CXCIV. When any Estate or Lease shall be sold under the Court there shall be paid out of the Purchase Money, and carried to the Account standing to the Credit of the Accountant General in the Books of the Bank of Ireland, termed "The Suitors Fee Fund Account," a Per-centage not exceeding *Two Pounds* per Centum thereon, and the Money so paid into the Suitors Fee Fund Account shall form Part thereof, and shall be applied accordingly.

General Orders to regulate Per-centage.

CXCV. The Court shall, by any General Orders to be made as by this Act directed, provide for the Collection, Payment, and (where the Purchaser shall be discharged from his Purchase) for the Repayment of such Per-centage as aforesaid, and shall make such Regulations in relation thereto as to the Court shall seem expedient.

Per-centage may be reduced.

CXCVI. The Court may, with the Consent of the Commissioners of Her Majesty's Treasury, by any General Orders to be made as by this Act directed, settle the Rate or Rates of Per-centage, or arrange a graduated Scale of Per-centages so to be deducted from such Purchase Money as aforesaid, and so from Time to Time vary the Amount of such Per-centage, but so that the same shall not exceed the Limit by this Act provided.

Deficiency of Suitors Fee Fund to be supplied from Consolidated Fund. 13 & 14 Vict. c. 51. ss. 26, 27.

CXCVII. In case the Suitors Fee Fund Account should be inadequate to the Payment of the Charges now or under this Act chargeable thereon, the Amount of such Charges beyond what can be so satisfied thereout shall be charged and chargeable and paid and payable upon and out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, by way of Advance in aid of the said Suitors Fee Fund Account: Provided always, that the said Sums which shall be so advanced out of the Consolidated Fund in aid of the Suitors Fee Fund Account shall become and remain a Charge thereon in favour of the Crown, so far as the same will extend after Payment of prior Charges, and the same shall be repaid to the proper Officers of Her Majesty's Exchequer, to be carried to the Credit of the Consolidated Fund, at such Times and in such Manner as the Lord High Treasurer

Treasurer or the Commissioners of Her Majesty's Treasury shall order and direct.

PART IX.

Miscellaneous.

PART IX. — MISCELLANEOUS.

Compensation to Officers.

CXCVIII. Inasmuch as the Emoluments of some of the Officers of the Court may be diminished by the Operation of this Act, or by the Rules and Orders to be made thereunder, for which they may claim to have Compensation made, it shall be lawful for the Commissioners of Her Majesty's Treasury for the Time being and they are hereby required, within the Space of *Six* Calendar Months after any such Claim shall arise and be made, by Examination on Oath or otherwise (which Oath they and each of them are and is authorized hereby to administer), to require whether, and, if any, what Compensation ought to be made to any Officer or Person claiming such Compensation; and that in all Cases in which it shall appear to the said Commissioners that Compensation ought to be granted it shall be lawful for the Commissioners, by Warrant under their Hands, to order and direct that such annual or other Compensation shall be made to the Persons so claiming such Compensation as aforesaid, or any of them, as to the said Commissioners, in their Discretion, shall seem just and reasonable, and all such Compensation, whether annual or in gross, shall be payable out of such Funds as may be provided by Parliament for that Purpose.

Judges to make Returns to Chancellor.

CXCIX. The Master of the Rolls, the Vice-Chancellors, the Masters, and such of the Officers of the Court as the Court shall by any General Order direct, shall make annual Returns to the Chancellor of the State and Despatch of Business pending before them respectively, at such Period of the Year and in such Form as the Court shall by any General Order direct.

Costs may be regulated by General Orders.

CC. The Court may by any General Order or Orders to be made from Time to Time regulate the Costs, Fees, and Allowances to be paid to Solicitors and others in respect of the several Matters in this Act contained.

Taxation of Costs.

Taxation of Costs.

Notwithstanding Death of Person to whom Costs

CCI. When by any Decree or Order Costs shall be awarded to be paid to any Person, and the Person to whom such Costs shall be awarded to be paid shall die before such Costs shall have been taxed or the Amount ascertained, such Costs may be taxed and ascertained by awarded, Costs may be taxed.

by the Taxing Master, notwhstanding the Death of such Person, on the Application of his personal Representative.

Notwithstanding Death of Person to whom Costs to be paid, Costs may be taxed.

CCII. When by any Decree or Order Costs shall be awarded to be paid by any Person or out of any Fund, and in consequence of the Death of such Person or of any other Person such Costs cannot, according to the existing Law or Practice, be taxed or ascertained, it shall be lawful for the Taxing Master to tax and ascertain the same, upon Service of Summons upon the Heir or personal Representative of the Person by whom such Costs have been ordered to be paid, or, when such Costs have been awarded to be paid out of any Fund, upon the Person or Persons representing or beneficially interested in such Fund, or such of them as the Taxing Master shall deem sufficient.

Summons to tax to be served in ordinary Way.

CCIII. Summonses to tax Costs, pursuant to this Part of this Act, shall be served in like manner as ordinary Summonses issued by the Taxing Master, or in such Manner as the Taxing Master shall by any Writing, to be signed by him direct.

Taxing Master may proceed ex parte.

CCIV. The Taxing Master may proceed ex parte with such Taxation, in case the Person served with such Summons shall not, by himself or his Solicitor, attend pursuant thereto.

Taxed Costs may be recovered.

CCV. All Costs taxed and ascertained under this Part of this Act may be recovered and paid in like Manner as if the same had been taxed and ascertained in the Lifetime of the Person to whom or by whom the same shall have been awarded to be paid, or of the Person in consequence of whose Death the same could not, according to the existing Law or Practice, have been taxed or ascertained, any Law or Practice to the contrary notwithstanding.

Office of Accountant General.

Office of Accountant General.

CCVI. Whereas the Money and Effects belonging to the Suitors of the Court under the Care and Direction of the Accountant General have of late Years greatly increased, as well by the Operation of the Thirteenth and Fourteenth Victoria, Chapter Fifty-one, as from other Causes, and will be still further increased by the Operation of this Act: And whereas, under the Provisions of the Fourth George the Fourth, Chapter Sixty-one, the Accountant General is entitled, in addition to his Salary, to demand and receive Fees for Copies of Accounts; and it is expedient that the Accountant General should receive an adequate Salary for the Performance of his Duties, and that the Fees now payable to him, or any Fees to be substituted for such Fees, should be applied in the Manner herein-after mentioned: Be it therefore enacted, That

13 & 14 Vict. c. 51.

4 G. 4. c. 61.

That from and after the passing of this Act the Accountant General of the said Court of Chancery shall receive by way of Salary the clear annual Sum of *Twelve hundred Pounds*, in lieu of the Salary and Fees heretofore payable to him, such Salary to be paid and payable to him in the same Manner, at the same Periods, *and out of the same Funds*, as the Salary to which he is now entitled.

Salary of Accountant General to be 1200*l.*, in lieu of Salary and Fees now payable.

CCVII. The Office of the Accountant General shall be exercised in Person, and not by Deputy; and no Person holding the said Office shall practise as a Barrister, or act or practise, either in his own Name or in the Name of any other Person or Persons, as a Solicitor in the said Court of Chancery, or as an Attorney in any of the Courts of Law in Ireland, or in Partnership with any Solicitor or Attorney; and in case any Person holding the said Office shall so practise as such Barrister, Solicitor, or Attorney as aforesaid, the Person so offending may be removed from his Office by Order of the Lord Chancellor, and shall be rendered incapable of afterwards holding any Office, Situation, or Employment in the said Court.

Office of Accountant General to be exercised in Person, and not by Deputy, and Accountant General not to practise as a Barrister or Attorney.

CCVIII. It shall be lawful for the Lord Chancellor, from Time to Time as he shall think expedient, and with the Assent of the Commissioners of Her Majesty's Treasury, to direct that the Salaries now or from Time to Time hereafter payable to the Clerks in the Accountant General's Office shall be increased to any Amount not exceeding the Amounts following; that is to say, First and Principal Clerk, Pounds; Second Clerk, Pounds; Third Clerk, Pounds; Fourth Clerk, Pounds; Fifth Clerk, Pounds; Sixth Clerk, Pounds; Seventh Clerk, Pounds; such Salaries so to be from Time to Time increased to be paid and payable in the same Manner, at the same Periods, *and out of the same Funds*, as the Salaries to which they are respectively now entitled.

Salaries of Clerks in Accountant General's Office may be increase

CCIX. In calculating the Amount of the Retiring Allowance to which Digby Pilot Starkey, the present Accountant General of the said Court, now is or hereafter may become entitled, under Section Thirty-eight of "The Court of Chancery (Ireland) Regulation Act, 1850," it shall be lawful to take into account the Period during which the said Digby Pilot Starkey discharged the Duties of Deputy Accountant General, and to allow One Year for every *Two* Years Service of the said Digby Pilot Starkey as such Deputy Accountant General.

In estimating Retiring Allowance, Period of D. P. Starkey's Service as Deputy to be taken into account.

CCX. From and after the *First Day of Michaelmas Term One thousand eight hundred and fifty-six*, all Fees and Allowances for Copies

Fees for Copies of Accounts to cease, and

PART IX.

MISCELLANEOUS.

Office of Accountant General.

other Regulations as to such Copies to be made.

Copies of Accounts or other Documents provided for and directed to be paid to the Accountant General of the Court of Chancery by the said Act of the Fourth of George the Fourth, Chapter Sixty one, or any other Act or Acts, shall cease; and it shall be lawful for the Court, by any General Orders to be made as by this Act directed, from Time to Time to make such Regulations as to the making and delivering Certificates, Copies of Accounts, and other Documents in the Accountant General's Office, and the Manner in which such Certificates and Copies should be paid for, and the Amount of Charge for the same, and by whom the Amount to be so charged should be received, and how the same, with any such Deductions for Expenses of the Office as such General Orders may direct, should be accounted for, and the Balance paid over to "The Suitors Fee Fund," as to the Court may from Time to Time seem fit.

Recognizances.

Recognizances.

Court may order Parties to Recognizances to pay Sum secured.

CCXI. In all Cases in which any Person shall have obtained, or would according to the existing Practice of the Court be entitled to obtain, an Order of the Court to put in Suit a Recognizance entered into in any Cause or Matter depending or to be depending in the Court, and whether Proceedings shall have been taken on such Recognizance or not, it shall be lawful for the Court, on the Application of such Person, to make an Order directing the Party or Parties who have acknowledged or signed such Recognizance, or any of them, or the Heirs or Representatives of them or any of them, to pay the Sum thereby secured, or such lesser Sum as may have been ascertained to be due thereon, in such Manner as the Court shall direct.

Order to be conditional in first instance, to be made absolute on no Cause shown.

CCXII. Such Order shall be conditional in the first instance, and shall be served on such Party or Parties, or the Heirs or Representatives of them, or such of them and in such Manner as the Court may direct or sanction; and such Order shall be made absolute, with such Variations or Additions or upon such Terms as the Court may think fit, in case no sufficient Cause be shown to the Court within a Time to be in such Order limited, and thereupon such Order may be enforced according to the Law and Practice in such Cases usual.

Court may ascertain Sum due and Orders of Court, subject to Appeal.

CCXIII. The Court shall have Power to institute or direct any Inquiry or to direct an Issue or any other Proceeding which to the Court may seem necessary or proper for the Purpose of ascertaining the Sum due upon such Recognizance, and the same shall be thereupon prosecuted accordingly; and an Appeal shall lie from any Order in any Proceeding upon a Recognizance under this Part of this Act, in like Manner as in the Case of any Order in a Cause or Matter.

CCXIV. The

MISCELLANEOUS.

Recognizances.

Court to regulate Proceedings on Recognizances by General Orders.

CCXIV. The Court shall have Power, by any General Orders, to be made as by this Act directed, to regulate from Time to Time the Practice and Procedure in regard to all Proceedings upon such Recognizances, and to abolish or vary the existing Practice or Procedure in relation thereto.

SCHEDULE.

Form of Conveyance on Sales by the Court (which may be used, with such Variations as the Circumstances may appear to the Court to require).

I, being of the High Court of Chancery in Ireland, in consideration of the Sum of Pounds, by *A.B.* of paid into the Bank of Ireland, to the Credit of the Accountant General of the Court of Chancery, do, in pursuance of the "Court of Chancery (Ireland) Regulation Act, 1850," grant unto the said *A.B.* [*here describe the Premises to be sold*], to hold the same unto the said *A.B.*, his Heirs and Assigns [*or, in the Case of Chattel Interest*, his Executors, Administrators, and Assigns] for ever, or for the qualified or other Estate to be conveyed [*or, in the Case of a Leasehold Interest or Term of Years*, for the unexpired Term created] by a certain Lease or Indenture, or Will, as the Case may be, [*describing the Lease, Indenture, or Will, as the Case may be,*] subject to [*here specify, when the Sale is made subject thereto, the Tenancies, Leases, Under-leases, or Charges, either by reference to a Schedule or otherwise*].

Court of Chancery (Ireland).

A

BILL

To alter the Constitution, Procedure, and Practice, increase the Powers of and diminish the Expense of Proceeding in the Court of Chancery in Ireland, and to discontinue the Incumbered Estates Court.

(Prepared and brought in by
Mr. Solicitor General for Ireland, Mr. Attorney General for Ireland, and Mr. Horsman.)

Ordered, by The House of Commons, *to be Printed,*
4 *February* 1856.

[Bill 16.]

Under 9 *oz.*

4 *February* 1856. 19 VICT.

(Ireland.)

A

BILL

TO

Facilitate and diminish the Expense of Appeals from the Court of Chancery in Ireland.

WHEREAS the Expense and Inconvenience attendant upon Appeals in Causes from the High Court of Chancery in Ireland to the House of Lords, and in Lunatic Matters from the Decisions of the Lord Chancellor to the Queen in Council, have the Effect of depriving Parties of the Exercise of such Right in many Cases adjudicated by the said Court in which Parties thereto are dissatisfied with the Judgment of the Court: And whereas no Right of Appeal has hitherto existed from the Decision of the Lord Chancellor of Ireland for the Time being in Bankruptcy and other Matters, although Appeals in such Cases have been provided in corresponding Cases in England: And whereas it is expedient to provide a cheap and expeditious Mode of Appeal in all Causes and Matters without affecting the Jurisdiction of the House of Lords or the Queen in Council as Tribunals in the last Resort: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preamble.

14 & 15 Vict. c. 83.

Appeal from the Court of Chancery to the Court of Chancery Appeals.

I. All Decisions, Decrees, or Orders which shall be pronounced by the Lord High Chancellor of Ireland for the Time being in any Causes or Matters including Decisions in Bankrupt, Lunatic, or minor Matters, or which shall be pronounced by any Vice-Chancellor of the said Court or by the Master of the Rolls, shall in the first instance be subject to Appeal to the Court herein-after constituted and described, and which shall be styled "the Court of Chancery Appeals;" and the Court so to be constituted shall have full Power to make Orders for affirming, reversing, or varying such Decrees and Orders, or to make other Orders therein, in like Manner as the House of Lords is now empowered upon Appeals in Causes from the High Court of Chancery in Ireland to affirm, reverse, or vary the Decrees or Orders of the said Court or pronounce special Orders therein.

Not necessary to enrol Decree or Order appealed from.

II. For the Purposes of such Appeal to "the Court of Chancery Appeals," it shall not be necessary to enrol any Decree or Order against which such Appeal may be brought.

Appeal by Petition.

Form of Petition.

III. Every such Appeal brought under the Provisions of this Act shall be made by way of Petition, stating whether the Appellant, objects to the whole of the Decree or Order appealed from or to any particular Part or Parts thereof, and if only to a Part or Parts thereof then further stating against what Part or Parts such Appellant appeals; and the said "Court of Chancery Appeals" shall only entertain the Consideration of the Particulars so referred to in such Petition, or such Matters as may be necessarily involved therein or connected therewith; and it shall and may be lawful for the said Court of Appeal, in awarding the Costs of such Appeal, to have regard to the Manner of bringing such Appeal as to the Statement of the Matter appealed from.

Power of Court of Appeal to award Costs.

IV. The said "Court of Chancery Appeals" shall have full Power to award the Costs of any Appeal brought before it either to or against any Party to such Appeal as Appellant or Respondent, or to be paid out of any Estate or Fund, in like Manner as the House of Lords has Power to make such Orders for Payment of the Costs of Appeals brought before them; and such Order for Payment of Costs shall have the Effect of an Order of the Court of Chancery in Ireland, and may be enforced in like Manner as if the same had been pronounced by the said last-mentioned Court.

Decision of Majority to be binding.

V. The Decision of the Majority present of Judges of the said "Court of Chancery Appeals" shall be deemed and taken to be the Decision of the said Court; and if the Judges of the Court so present be equally divided in Opinion on any Cause or Matter brought before the Court by way of Appeal the Decision or Order appealed from shall be deemed and taken to be affirmed by the said Court.

VI. The said "Court of Chancery Appeals" shall be deemed and taken and is hereby invested with all the Powers of a Court of Record.

Court of Appeal a Court of Record.

VII. Any Person taking any Oath falsely before the said "Court of Chancery Appeals" on any Appeal, or before the Registrar of the said Court in relation thereto, shall be deemed guilty of Perjury, and subject to the same Penalties as if the same had been taken before the Lord Chancellor or any Officer of the Court lawfully authorized to administer the same.

Persons taking false Oath.

VIII. The said "Court of Chancery Appeals" shall have full Power to make General Rules and Orders for the Regulation of the Proceedings thereof and the Mode of bringing such Appeals.

Court to make General Orders.

IX. The said "Court of Chancery Appeals" shall consist of the Lord Chancellor of Ireland for the Time being, with Two other Members Judges thereof, who shall have the Style and Title of Lords Justices of Appeal, and shall hold Rank and Precedence next after the Lord Chancellor of Ireland, and shall hold their said Offices during good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such Judge from his Office upon an Address of both Houses of Parliament.

"Court of Chancery Appeals" to consist of the Lord Chancellor, with Two other Members, to be styled Lords Justices of Appeal.

X. The said "Court of Chancery Appeals" shall in the first instance be composed of the Lord Chancellor of Ireland, the Right Honourable Francis Blackburne, late Lord Chancellor of Ireland, and the Right Honourable Richard Keating, Judge of Her Majesty's Court of Prerogative in Ireland.

In the first instance who to be composed of.

XI. It shall be lawful for Her Majesty from Time to Time, when and as any Vacancy shall occur in the Office of any of the Lords Justices of Appeal for the Time being by Death or Resignation or Removal from Office, by Letters Patent under the Great Seal of Ireland to appoint a fit Person, being a Barrister of at least *Fifteen* Years Standing, to supply such Vacancy.

Vacancy in "Court of Chancery Appeals," how to be filled.

XII. Every Lord Justice of Appeal appointed or to be appointed under the Provisions of this Act shall, previous to executing any of the Duties of his Office, take the following Oath, which the Lord

Every Lord Justice of Appeal to take the following Oath.

Chancellor of Ireland for the Time being is hereby authorized and required to administer:

'I DO solemnly and sincerely promise, That I will duly and faithfully, 'and to the best of my Skill and Power, execute the Office of Lord 'Justice of Appeal. So help me GOD.'

Salary of Lord Justice of Appeal.

XIII. There shall be issued and paid and payable, to each and every of such Lords Justices of Appeal, so long as they shall hold their respective Offices, and also to every succeeding Lord Justice of Appeal in Ireland for the Time being, out of such Funds as may be provided by Parliament, the annual Sum of Sterling; and every such annual Sum shall from Time to Time be payable and paid quarterly, free and clear from all Taxes and Deductions whatsoever (Income Tax excepted,) on every Day of , Day of , Day of , and Day of , the First Payment thereof to be made on the first of the said quarterly Days which shall immediately next follow their Appointment respectively.

Proportion of Salary on Resignation or Death.

XIV. When any Person who shall hold the Office of Lord Justice of Appeal shall during the Course of any Quarter resign or quit his said Office, or shall die; then the Person so resigning or quitting, or the Executors or Administrators of such Person so dying (as the Case may be), shall be entitled to such proportionate Part of such Salary as shall have accrued during such Part of the said Quarter as such Person shall have executed the said Office; and every Lord Justice of Appeal to be hereafter appointed shall, on the Quarter Day next after his Appointment, be entitled to have and receive out of the said Funds, such Proportion of such Salary as shall have arisen from the Date of the Letters Patent of his Appointment.

Her Majesty empowered to grant Annuity to Lord Justice of Appeal on his Resignation.

XV. It shall be lawful for Her Majesty, by any Letters Patent under the Great Seal of the United Kingdom, to give and grant unto any Person executing the Office of Lord Justice of Appeal in pursuance of this Act an Annuity not exceeding Sterling, to commence and take effect immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said Office of Lord Justice of Appeal, and to continue from thenceforth during the Life of the Person to whom the same shall be granted; and such Annuity shall be payable out of such Funds as may be provided by Parliament; and such Annuity shall be paid quarterly, free from all Taxes and Deductions whatsoever, on the Four usual Days of Payment in the Year (that is to say,) the Fifth Day of January, the Fifth Day of April, the Fifth Day of July, and the Tenth Day of October in every Year, by equal Portions; and the First quarterly Payment, or a proportionate Part thereof, to be computed from the Time of the Resignation of the said Office, shall be made on such of the same Days as shall next happen after the Resignation of the said Office; and the Executors or Administrators of the Person to whom the same Annuity shall be granted as aforesaid shall be paid such proportionate Part of the said Annuity as shall accrue from the Commencement or the last quarterly Payment thereof, as the Case may be, to the Day of his Death: Provided always, that it shall be lawful for Her Majesty in and by such Letters Patent to limit the Duration of Payment of such Annuity, or any Part thereof, to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall together not exceed in the whole the said Sum of Sterling: Provided also, that no Annuity shall be granted to any Person having executed the Office of Lord Justice of Appeal under this Act shall be valid unless such Person shall have continued in the said Office for the Period of Years, or shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant.

Proviso.

XVI. Provided that in the Instance of the said Right Honourable Francis Blackburne, or the Right Honourable Richard Keating, while filling the Office of Lords Justices respectively, or when any other Person shall fill such Office hereafter who shall be in the Receipt of any Salary or Pension from the Crown, such Person as aforesaid shall receive a Salary of Pounds Sterling over and above and without Prejudice to any such Pension or Salary so enjoyed by him at the Time of his Appointment.

Judges of Appeals to sit in the Court of Chancery.

Registrar of Court of Chancery to act as Registrar to Court of Appeal.

XVII. The Sittings of the said "Court of Chancery Appeals" shall be held in the Court or Place in which the Lord Chancellor of Ireland shall then hold his usual Sittings; and such One of the Registrars of the Court of Chancery in Ireland who shall be then bound to attend in the Court of the Lord Chancellor in that Capacity shall act as Registrar to such Court of Appeal, and the Records of such Appeals and the Judgments, Decrees, or Orders of the said Court of Appeal shall be kept in the Registrar's Office of said Court of Chancery.

Right of Appeal to the House of Lords.

XVIII. An Appeal shall lie from every Decree or Order pronounced by the said Court of Chancery Appeals to the House of Lords, in like Manner as such might before the passing of this Act have been brought from Decrees of the Lord Chancellor.

Right of Appeal extended to Orders of the Incumbered Estate Court Commissions.

12 & 13 Vict. c. 77.

XIX. And whereas by an Act passed in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, intituled " An " Act further to facilitate the Sale and Transfer of Incumbered " Estates in Ireland," it is enacted, that when the Commissioners (under the said Act) allow Appeal, but not otherwise, an Appeal against any Order of the Commissioners may be made to the Privy Council of Ireland within One Calendar Month from the making the Order appealed against: And whereas it is expedient to transfer such appellate Jurisdiction from the Privy Council to the said Court of Chancery Appeals, and give such Right of Appeal to Suitors in said last-mentioned Court at their own Discretion and as a Matter of Right: Be it therefore enacted, That so much of the said recited Act as provides for such Appeals be hereby repealed, and that it shall and may be lawful to make or bring Appeals against Orders of the said Court for the Sale of Incumbered Estates to the said Court of Chancery Appeals, provided such Appeal be brought within *One Calendar Month* from the making the Order appealed against, and Order made upon such Appeal by the said " Court of Chancery Appeals " shall be final and conclusive.

This Act not to be deemed applicable to Ministerial Duties of the Lord Chancellor.

XX. Nothing herein contained shall be deemed as referring to the Powers, Duties, or Authorities ministerially attached to the Office of Lord Chancellor, or exercised by the Lord Chancellor as Keeper of the Great Seal in relation to Letters Patent, Grants, or Writings, or the Powers and Authorities of the Lord Chancellor in right or on behalf of Her Majesty as Visitor of any Charity or other Foundation, or the Powers of the Lord Chancellor of Appointment to or Removal from or otherwise in relation to Offices in the said Court of Chancery or other Offices, or any Powers of the Lord Chancellor to make General Rules or Orders for regulating the Practice, Proceedings, and Business of the said Court of Chancery, or the Business or Duties of any of the Offices or Officers of such Court.

Construction of Terms.

XXI. In the Construction of this Act, unless such Meaning be repugnant to or inconsistent with the Context, the Expressions " Lord Chancellor " shall mean and include the Lord High Chancellor of Ireland, and the Lord Keeper or Lords Commissioners of the Great Seal of Ireland for the Time being, or Person to whom Authority shall be deputed to act judicially in Lunatic Matters.

Court of Chancery (Ireland) (Appeals).

A

BILL

To facilitate and diminish the Expense of Appeals from the Court of Chancery in Ireland.

(*Prepared and brought in by*
Mr. Whiteside and Mr. Napier.)

Ordered, by The House of Commons, *to be Printed,*
4 *February* 1856.

[Bill 14.]

Under 1 *oz.*

4 *February* 1856. 19 VICT.

(Ireland.)

A

BILL

TO

Make Provision for the more speedy and effectual Despatch of Business in the High Court of Chancery in Ireland.

Preamble.

WHEREAS the present Mode of proceeding in the High Court of Chancery in Ireland by Orders of Reference, Reports, and Exceptions, is attended with Delay, Expense, and other Inconvenience, and it is expedient that every Cause or Matter should be prosecuted through all Stages before and under the Direction of the same Judge or Judicial Officer: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this Parliament assembled, and by the Authority of the same, as follows:

Appointment of Vice Chancellors.

I. The existing senior Three Masters in Ordinary of the said Court of Chancery shall be and are hereby constituted Judges of the said Court under the Style of Vice Chancellors, with Power severally to exercise such Jurisdiction and Authority as herein-after provided; and it shall be lawful for Her Majesty from Time to Time, when and as any Vacancy shall occur in the Office of any of the said Vice Chancellors, or of any of their Successors, for the Time being, by Death, Resignation, or Removal from Office, by Letters Patent under the Great

Seal of Ireland, to appoint a fit Person, being a Barrister of at least *Fifteen* Years standing, to supply such Vacancy: Provided that it shall not be necessary for any of the said Masters to obtain Letters Patent for their said Appointments to such Office of Vice Chancellor, but they shall be deemed capable of exercising such Office as if the same were held by Letters Patent under the Provisions of this Act: Provided also, that when any Vacancy shall occur in the said Office of Vice Chancellor while the present existing junior Two Masters in Ordinary or either of them hold such Office of Master, the senior of such junior Masters or the Survivor of them (as the Case may be) shall be appointed to fill such Vacancy; and if the senior of such Two existing junior Masters be so promoted, then upon the next Vacancy in the Office of Vice Chancellor the junior of the said Two Masters shall succeed to such last-mentioned Vacancy; and every such Vice Chancellor shall hold his Office during good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such Judge from his Office, upon an Address of both Houses of Parliament.

Vice Chancellors to take the following Oath. 5 Vict. c. 5. s. 8.

II. Every Vice Chancellor to be appointed in pursuance of this Act shall, previous to his executing any of the Duties of his Office, take the following Oath, which the Lord Chancellor of Ireland for the Time being is hereby authorized and required to administer:

'I DO solemnly and sincerely promise and swear, that I will duly 'and faithfully, and to the best of my Skill and Power, execute 'the Office of Vice Chancellor. So help me GOD.'

Rank of Vice Chancellors. 5 Vict. c. 5. s. 25.

III. The said Vice Chancellors hereby appointed and their Successors in Office respectively shall have Rank and Precedence next after the Lord Chief Baron of Her Majesty's Court of Exchequer in Ireland.

Jurisdiction of Master of the Rolls, and the Vice Chancellors.

IV. The Master of the Rolls and each of the Vice Chancellors shall severally have full Power to hear and determine all Causes, Matters, and Things which are or shall be at any Time depending in the Court of Chancery in Ireland as a Court of Equity, or which have been or shall be submitted to the Jurisdiction of the said Court in relation to Infants or Lunatics, or by the Authority of any Act of Parliament, (except the Acts relating to Bankruptcy,) and all Decrees, Orders, and Acts of the said Master of the Rolls or Vice Chancellors severally, shall be deemed and taken to be respectively, as the Nature of the Case shall require, Decrees, Orders, and Acts of the said Court of Chancery, subject nevertheless to Appeal to the Court of Chancery Appeals.

V. The

Jurisdiction, &c.

V. The Master of the Rolls and each of the said Vice Chancellors shall and may severally exercise all or any of the Powers, Authorities, and Jurisdiction now or heretofore exercised by the Masters in Ordinary, or by the Master of the Rolls, including the Power of Attachment or Committal for Contempt, subject to Appeal to the "Court of Chancery Appeals."

Jurisdiction, &c.

VI. The Master of the Rolls and each of the said Vice Chancellors shall severally have full Power, Authority, and Jurisdiction, as well in relation to Causes and Matters which shall be heard before them as to those which may be referred to them respectively by Order or Decree of the Lord Chancellor, to direct and control the Conduct of the same, and make all proper and necessary Inquiries, Adjudications, Decrees, and Orders, in course of the Prosecution of the same, from such original Hearing or Reference to the final Determination thereof, and without making any Report thereon, subject nevertheless to Appeal to the "Court of Chancery Appeals."

Power of junior Masters to wind up Causes pending in their Offices.

VII. So soon as this Act shall come into operation the Office of Master shall stand abolished, except as and for the Purposes hereinafter specially provided; the junior Two existing Masters shall have full Power and Authority, not only as heretofore to continue the Control and Direction of the several Causes and Matters which shall be pending before them when this Act shall come into operation, but shall have Jurisdiction to institute such Inquiries and make such Decrees, Orders, and Adjudications in relation to the same throughout their several Stages to the final Determination thereof, including Orders for Payment of Money, as such Vice Chancellors may institute and make in the several Causes and Matters before them under the Authority of this Act, subject to the like Appeal to the Lord Chancellor; and such Masters shall, instead of making Reports in such pending Causes and Matters, make Orders, which shall be of the same Force and Effect as Orders of the Lord Chancellor, and shall be final and conclusive, unless appealed from.

Causes, Matters, &c. in the Offices of the senior Three Masters to be transferred to the junior Two Masters, who are to exercise therein the same Powers, &c. as with

VIII. All Causes, Matters, and Things which at the Time of the Commencement of this Act shall be attached to the Offices of the said Three Masters hereby appointed Vice Chancellors (save and except Matters of Minority and Lunacy), and also all References under Decrees or Orders of the Court (except in Matters of Minority and Lunacy) depending before them, shall be transferred to and prosecuted before the said junior Two Masters, and shall be distributed between them in such Manner as the Lord Chancellor shall direct, and such junior Two Masters shall have and exercise, with respect to all such Business, such Jurisdiction, Powers, and Authorities respect to the Business depending before them.

tively as is herein-before reserved to or vested in them with respect to the Business heretofore depending before them at the Time of the Commencement of this Act: Provided always, that in case any Cause, Matter, or Thing shall have progressed so far before any of such senior Three Masters that the Transfer thereof as aforesaid would be attended with Delay and Expense to the Parties, it shall be lawful for the Lord Chancellor to authorize and direct such Master to continue the Prosecution of such Cause, Matter, or Thing, and such Master shall prosecute the same accordingly, and with the same Powers in every respect as if this Act had not passed: Provided nevertheless, that in case it shall appear, from the State of Business in the respective Courts of the Vice Chancellors and the Offices of such junior Masters, that it would be expedient that the Vice Chancellors should assist such junior Masters in the Discharge of the Business so transferred to them from the Offices of the senior Three Masters as aforesaid, it shall be lawful for the Lord Chancellor to authorize and direct that such Portion of such last-mentioned Business as he shall think adviable shall be disposed of by any One or more of such Vice Chancellors; and such Vice Chancellors shall, in respect of such Business, exercise all and the same Powers, Jurisdiction, and Authority as is vested in them with respect to the other Business of their respective Courts.

The Three senior Masters to hand over to the junior Masters all Deeds, &c., necessary for Prosecution of the Business transferred to them.

IX. The senior Three Masters respectively shall hand over and transfer to the Office of the respective junior Masters all Deeds, Papers, and Documents necessary for the Prosecution of the Causes, Matters, or Things to be transferred to such junior Masters under the Provisions of this Act, on receiving a Requisition and Receipt therefor from the Master requiring the same.

Power to Masters to summon Parties, &c., and to settle and wind up Business before them. 15 & 16 Vict. c. 80. s. 7.

X. In order as expeditiously as may be to wind up the several Causes, Matters, and Things which may be depending before or transferred to such junior Two Masters in Ordinary of the said Court, as herein-before provided, it shall be lawful for each of such Masters at any Time after the passing of this Act to summon, as he shall deem fit, all or any of the Parties to any Cause, Matter, or Thing so depending, or their Solicitors, and thereupon to proceed with such Cause, Matter, or Thing, and give such Directions, and make such Order, as he may think necessary, for settling and winding-up the same; but any such Order shall be subject to be discharged or varied by the Court upon Application made for that Purpose; and the Master shall be at liberty to proceed for the Purposes aforesaid in the Absence of any of the Parties or Solicitors neglecting or refusing to attend the Summons.

XI. In case the Master shall be unable by reason of the Conduct of Parties, or otherwise, to finally dispose of any Cause, Matter, or Thing, he shall be at liberty to dispose of any Part thereof within his Power, and to report or certify on the whole of the Case; and upon such Report or Certificate the Court shall make such Order as it shall think proper on all or any of the Parties for the further Prosecution of the Suit or Matter, or for the final Disposal thereof, and for the Payment of the Costs thereof, including any of the Costs which may have been incurred by reason of the Conduct of the Parties.

Power to Court, upon Master's Report or Certificate, to make Order for Prosecution or final Disposal of any Suit, &c., and for Payment of Costs, &c. 15 & 16 Vict. c. 80. s. 8.

XII. In the event of the Parties in any Cause, Matter, or Thing, or their Solicitors, refusing or neglecting within a Time to be fixed by the Master to bring the Master's Report or Certificate before the Court, the same may by Direction of the Master be brought before the Court by the general Solicitor for the Time being for Minors and Lunatics, Wards of the Court; and the Court is hereby empowered to order Payment of the Costs and Expenses of such Solicitor out of such of the Funds in the Cause, Matter, or Thing, or by such Parties, as to the Court shall seem just; and in case Payment thereof cannot be obtained by any of the Means aforesaid, the same by the Direction of the Court may be paid out of the Suitors Fee Fund.

On Neglect of Parties to bring Master's Report before the Court, the general Solicitor to Minors and Lunatics to do so, and his Costs provided for. 15 & 16 Vict. c. 80. s. 9.

XIII. All Matters of Minority and Lunacy which at the Time of the Commencement of this Act shall be attached to the respective Offices of the said senior Three Masters, shall thenceforth be attached to their respective Courts as Vice Chancellors, and all future Proceedings in such Matters shall be by Notice to be moved before such Vice Chancellors, instead of by Petition as heretofore; and all References pending in such Matters at the Time of the Commencement of this Act shall be continued to a final Termination before the Vice Chancellor in whose Office as a Master such References had been pending, and such Vice Chancellors shall, instead of making Reports in such pending Matters, make Orders which shall be of the same Force and Effect as Orders of the Lord Chancellor, and shall be final and conclusive unless appealed from.

Matters of Minority and Lunacy attached to the Offices of the senior Three Masters shall be attached to their respective Courts as Vice Chancellors, and future Proceedings shall be by Notice. Pending References, how to be disposed of.

XIV. The said junior Two Masters shall, on or before the *First Day of Michaelmas Term* which will be in the Year One thousand eight hundred and fifty-six, transmit or cause to be transmitted to the Office of the Chief Secretary of the Lord Lieutenant or other Chief Governor or Governors of Ireland, a Report in Writing under the Hands or Hand of the said Masters or One of them, containing the Names of the several Causes, Matters, and Things so transferred to them from the Offices of the said senior Three Masters as aforesaid, together

The junior Two Masters to deliver a Report of the Causes transferred to them from the Offices of the senior Three Masters in Ordinary to the

Secretary of the Lord Lieutenant; and to make annual Returns of such of the said Causes, &c. as shall remain undisposed of, from Time to Time. 4 & 5 W. 4. c. 78. s. 16.

together with the Names of the several Solicitors having the Carriage of the Proceedings in the said Causes, Matters, and Things respectively; and the said junior Two Masters, or their respective Successors in Office, shall within the first *Four* Days of Michaelmas Term in each and every Year after the said Year One thousand eight hundred and fifty-six, so long as any of the said Causes, Matters, or Things shall remain pending or undisposed of in the respective Offices of the said Masters or their Successors, transmit or cause to be transmitted to the Office of such Chief Secretary a Report in Writing under their respective Hands of the Names of such of the said several Causes, Matters, or Things from Time to Time remaining undisposed of, the Names of the Solicitors respectively having the Carriage of the Proceedings, and the Date and Object of the last Meeting which shall have taken place in each of such Causes, Matters, or Things, from the Period of the next preceding Report, together with the Cause, so far as can be ascertained, why the same have not been diposed of.

The Master of the Rolls and Vice Chancellors to cause a Return of certain Particulars to be delivered annually to the Chief Secretary of the Lord Lieutenant.

XV. The Master of the Rolls and each of the Vice Chancellors shall severally on the *First Day of November* in every Year, or within *One Week* after the said Day, deliver or cause to be delivered at the Office of such Chief Secretary, a Return in Writing under their respective Hands, containing a List or Schedule of the several Causes, Petitions, or Matters of every Description then pending in his Court, so far as the same can be ascertained, with the Names of the respective Solicitors having the Carriage of the Proceedings therein, and the Date and Object of the last Proceeding which shall have taken place in each of such Causes, Matters, or Things respectively, either before such Judge or his Chief Clerk.

Power to Master of the Rolls and Vice Chancellors to sit at Chambers for the Despatch of Business, &c. 15 & 16 Vict. c. 80. s. 11.

XVI. From and after the *Commencement of this Act* it shall be lawful for the Master of the Rolls and the Vice Chancellors for the Time being, and they are hereby required to sit at Chambers for the Despatch of such Part of the Business of the said Court as can, without Detriment to the public Advantage arising from the Discussion of Questions in open Court, be heard in Chambers, according to the Directions herein-after in that Behalf specified or referred to; and the Times at and during which they respectively shall so sit shall be from Time to Time fixed by them respectively.

Power to the Lord Chancellor to provide Chambers for the Vice Chancellors. 15 & 16 Vict. c. 80. s. 12.

XVII. The Chamber Business of the Master of the Rolls and of every Vice Chancellor shall be carried on in conjunction with his Court Business; but as no Rooms are attached to the Courts of the said Masters hereby created Vice Chancellors in which such Chamber Business can be transacted, it shall be lawful for the Lord Chancellor to cause Chambers to be provided for every of them respectively for that Purpose until Courts with proper Rooms attached can be provided for them.

Judges may adjourn from open Court to Chambers, and vice versâ, the Consideration of any Matter. 15 & 16 Vict. c. 80. s. 27.

XVIII. It shall be lawful for the Master of the Rolls and every of the Vice Chancellors respectively when sitting in open Court to adjourn for Consideration in Chambers any Matter which, in the Opinion of such Judge, may be more conveniently disposed of in Chambers, or when sitting in Chambers to direct any Matter to be heard in open Court, which he may think right to be so heard.

Mode of proceeding before Judges at Chambers to be by Notice. 15 & 16 Vict. c. 80. s. 28.

XIX. The Mode of proceeding before the Master of the Rolls and Vice Chancellors respectively at Chambers shall be by Notice, subject, however, to the same Rules and Regulations as to the Entry and Service thereof as heretofore applicable to the Service of Summonses, unless the same shall be altered by any General Rule to be made in pursuance of the Powers for that Purpose in this Act contained.

Judges to have the same Power and Jurisdiction as in open Court. 15 & 16 Vict. c. 80. s. 13.

XX. The Master of the Rolls and every of the Vice Chancellors respectively when sitting in Chambers shall have the same Power and Jurisdiction in respect of the Business to be brought before them as if they were respectively sitting in open Court.

Orders made in Chambers to be drawn up by the Judges Clerks. 15 & 16 Vict. c. 80. s. 14.

XXI. The Orders made by the Master of the Rolls and Vice Chancellors respectively when sitting in Chambers shall be drawn up there by their respective Clerks, to be appointed as herein-after mentioned.

Orders made at Chambers to have the same Force as Orders of Court, &c. 15 & 15 Vict. c. 80. s. 15.

XXII. All Orders of the Master of the Rolls or of any Vice Chancellor, made by him at Chambers, shall have the Force and Effect of Orders of the Court of Chancery, and such Orders may be signed and enrolled in like Manner.

Power to the Judges to direct what Matters shall be heard and investigated by themselves, and what by their Chief Clerks. 15 & 16 Vict. c. 80. s. 29.

Right to Suitor to bring any Point before the Judge.

XXIII. From and after *the Commencement of this Act* the Master of the Rolls and the Vice Chancellors respectively shall have the sole Power (subject to any Rules which may be made by the Lord Chancellor, with the Advice and Assistance of them or any Two of them,) to order what Matters and Things shall be investigated by and before their respective Chief Clerks, either with or without their Direction, during their Progress, and what Matters and Things shall be heard and investigated by themselves; and particularly, if the Judge shall so direct, his Chief Clerk shall take Accounts and make Inquiries; and the Judge shall give such Aid and Directions in every or any such Account or Inquiry as he may think proper, but subject nevertheless to the Right of the Suitor to bring any particular Point before the Judge himself.

All Powers possessed by Masters in Ordinary to be exercised by Judges. 15 & 16 Vict. c. 80. s. 36.

XXIV. From and after *the Commencement of this Act* all or any of the Powers, Authorities, and Jurisdiction given to the Masters in Ordinary of the said Court by any Act or Acts then in force may be exercised by the Master of the Rolls and Vice Chancellors respectively.

Power to Lord Chancellor, with Advice, &c. of Judges to make Rules and Orders for regulating the Mode of Procedure at Chambers. 15 & 16 Vict. c. 80. s. 38,

XXV. It shall be lawful for the Lord Chancellor, with the Advice and Assistance of the Master of the Rolls and Vice Chancellors, or any Two of them, and they are hereby required forthwith to make and issue General Rules and Orders for regulating the Times and Form and Mode of Procedure before the Master of the Rolls and Vice Chancellors respectively, sitting at Chambers, and their respective Chief Clerks, and generally the Practice of the said Court, in respect of the Matters to which this Act relates, and for regulating the Fees and Allowances to Solicitors of the said Court in respect to such Matters; and such Rules and Regulations, as aforesaid, shall take effect as General Orders of the said Court, and may from Time to Time be rescinded, altered, varied, or added to, by the like Authority.

Existing junior Two Masters to exercise exclusive Jurisdiction in the Appointment of Receivers, &c. subject to Appeal to the Lord Chancellor.

XXVI. The said existing junior Two Masters, or such Person as may be from Time to Time nominated for the temporary Discharge of such Duty by the Lord Chancellor, shall exercise exclusive Jurisdiction in the Appointment and Control of Receivers, in passing Receivers Accounts, and otherwise in relation to Estates under their Management, and the Application of Funds in their Hands, in like Manner as such Powers are already vested in Masters in Ordinary and the Master of the Rolls for that Purpose by the Law and Practice of the said Court, subject nevertheless to Appeal to the Lord Chancellor, and without Prejudice to any Jurisdiction heretofore exercised by the Lord Chancellor by the Law and Practice of the said Court; and the said Masters so retaining their Office under this Act shall continue to discharge the Duties imposed upon the Masters of the Court of Chancery, under the Statute passed in the Fifth and Sixth Years of the Reign of William the Fourth, Chapter Sixteen, intituled "An Act for altering and amending the Law regarding Commitments "by Courts of Equity for Contempts, and the taking Bills pro con"fesso in Ireland."

And shall also continue to discharge the Duties of the Masters under the 5 & 6 W. 4. c. 16.

First Vacancy of Situation of Second Master not to be filled up unless Lord Chancellor certi-

XXVII. Upon the Occurrence of the First Vacancy in the Office of such Receiver Masters, the Situation of such Second Master shall not be filled up unless the Lord Chancellor shall certify under his Hand to the Commissioners of Her Majesty's Treasury that the State of Business of such Court requires the Appointment of such Second Master, in which Case it shall be competent to Her Majesty

on

fies the Appointment to be necessary.

on a like Certificate from Time to Time appoint such Second Master; but nothing in this Act contained shall deprive Her Majesty of the Power of appointing, from Time to Time, One Receiver Master, as the Office may become vacant, who shall be called the Receiver Master.

Salary of Vice Chancellors.

XXVIII. From and after the *Commencement of this Act* the annual Salary heretofore payable to the said Three Masters who are hereby created Vice Chancellors shall cease, and in lieu thereof there shall be issued and paid and payable to each and every of such Vice Chancellors, so long as they shall hold their respective Offices, and also to every succeeding Vice Chanceller in Ireland for the Time being, out of such Funds as may be provided by Parliament, the annual Sum of *Three thousand five hundred Pounds* Sterling; and every such annual Sum shall from Time to Time from henceforth be payable and paid quarterly, free and clear from all Taxes and Deductions whatsoever (Income Tax excepted), on every Twenty-fifth Day of March, Twenty-fourth Day of June, Twenty-ninth Day of September, and Twenty-fifth Day of December; the First Payment thereof to be made on the first of said quarterly Days which shall immediately next follow the Commencement of this Act, and in proportion only to the Time which shall have then elapsed from the Commencement of this Act: Provided always, that nothing herein contained shall extend to affect or prejudice the Right of William Henn, Esquire, One of such Masters, to receive certain annual Sums heretofore payable to him for Compensation as One of the Masters of the said Court.

Proportion of Salary on Resignation or Death of Vice Chancellor, &c.

XXIX. Whenever any Person who shall hold the Office of Vice Chancellor in Ireland shall, during the Course of any Quarter, resign or quit his said Office, or shall die, then the Person so resigning or quitting, or the Executors or Administrators of such Person so dying, (as the Case may be,) shall be entitled to such proportionate Part of such Salary as shall have accrued during such Part of the said Quarter as such Person shall have executed the said Office; and every Vice Chancellor to be hereafter appointed shall, on the Quarter Day next after his Appointment, be entitled to have and receive out of the said Funds such Proportion of such Salary as shall have arisen from the Date of the Letters Patent of his Appointment.

Her Majesty empowered to grant an Annuity to a Vice Chancellor on his Resignation. 5 Vict. c. 5. s. 36.

XXX. It shall be lawful for Her Majesty by any Letters Patent under the Great Seal of the United Kingdom to give and grant unto any Person executing the Office of Vice Chancellor in pursuance of this Act an Annuity not exceeding *Three thousand Pounds* Sterling, to commence and take effect immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said

Office of Vice Chancellor, and to continue from thenceforth during the Life of the Person to whom the same shall be granted; and such Annuity shall be payable out of such Funds as may be provided by Parliament; and such Annuity shall be paid quarterly, free from all Taxes and Deductions whatsoever, on the Four usual Days of Payment in the Year, (that is to say,) the Fifth Day of January, the Fifth Day of April, the Fifth Day of July, and the Tenth Day of October in every Year, by equal Portions; and the First quarterly Payment, or a proportionate Part thereof, to be computed from the Time of the Resignation of the said Office, shall be made on such of the same Days as shall next happen after the Resignation of the said Office; and the Executors or Administrators of the Person to whom the same Annuity shall be granted as aforesaid shall be paid such proportionate Part of the said Annuity as shall accrue from the Commencement or the last quarterly Payment thereof, as the Case may be, to the Day of his Death: Provided always, that it shall be lawful for Her Majesty in and by such Letters Patent to limit the Duration of Payment of such Annuity, or any Part thereof, to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall together not exceed in the whole the said Sum of *Three thousand Pounds* Sterling: Provided also, that no Annuity granted to any Person having executed the Office of Vice Chancellor under this Act shall be valid unless such Person shall have continued in the said Office for the Period of *Fifteen* Years, or shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant: Provided also, that in estimating the Period of Service of the said Masters in Ordinary, who are hereby constituted and appointed Vice Chancellors, or who may succeed to such Office under the Provisions of this Act, with a view to the Amount of such Superannuation Allowance, it shall be lawful to reckon the Number of Years during which they have respectively filled the Office of Master in Ordinary of the said Court, along with those during which they may respectively fill the Office of Vice Chancellor; and in estimating the Period of Service of Acheson Lyle, Esquire, One of the Junior Masters, hereby appointed One of the Receiver Masters, in case he shall succeed to the Office of Vice Chancellor, with a view to the Amount of such Superannuation Allowance, it shall be lawful to reckon the Number of Years during which he has successively filled the Offices of Chief or Second Remembrancer of the Court of Exchequer and Master in Ordinary of the Court of Chancery in Ireland, along with those during which he may fill the Office of Vice Chancellor of the said Court of Chancery.

Such Annuity may be limited as herein mentioned.

Period of Service.

XXXI. The

The Master of the Rolls and Vice Chancellors to have certain Clerks in their respective Offices.

XXXI. The Master of the Rolls and each of the Vice Chancellors shall have in and attached to their respective Offices, to assist in the Despatch of Business as herein-after mentioned, the following Clerks and Assistants, that is to say, One Chief Clerk, for the Purpose of taking Accounts in detail in subordination to and under the Direction of such Judge, issuing Postings for Sales or Creditors, signing official Documents, and of otherwise assisting in the general Business of each Court respectively, and the Causes and Matters therein; a Second Clerk or Registrar, whose Duty it shall be to attend the Sittings and take Notes of Orders and Decrees pronounced by the respective Judges, to have such Orders and Decrees prepared from such Notes and transmitted to the Registrar's Office of the Court of Chancery, and otherwise assist in the general Business of such Court; and Two Junior Clerks to be attached respectively to each of such Courts and assist in the general Business thereof; and such Chief Clerks and Junior Clerks shall be respectively under the Control of the Judge to whose Court they shall respectively be attached, and shall perform such Duties in connexion with their respective Courts as such Judge shall from Time to Time direct; and all such Clerks and Assistants shall hold their respective Offices during good Behaviour, and so long as they shall personally give their Attendance upon their respective Duties, and shall conduct themselves diligently and faithfully in the due Execution of the Duties of their said Offices respectively, and shall not be removed except by the Order of the Lord Chancellor, who is hereby empowered, by Order made by him, to remove any such Chief, Second, or Assistant Clerk or Clerks for some sufficient Cause to be stated in such Order.

Power to the Master of the Rolls to appoint Clerks.

XXXII. It shall be lawful for the Master of the Rolls to appoint a Chief Clerk, a Second Clerk or Registrar, and Two Junior Clerks, to be attached to his said Court and to his Successors in Office, whose Duties shall correspond with those herein-before assigned to the like Officers under the Vice Chancellors, and who shall hold their Offices for the same Term, and subject to the like Regulations.

Appointment of Clerks in the Offices of the Vice Chancellors.

XXXIII. The Examiner now attached to the Office of each Senior Master hereby appointed Vice Chancellor as aforesaid shall be and become and he is hereby appointed the Chief Clerk to be attached to the Court of such Vice Chancellor and of his Successors in Office, and shall be deemed the Chief Clerk of such Judge; the Assistant Clerk now attached to the Office of each Senior Master hereby appointed Vice Chancellor shall be and become and he is hereby appointed Registrar to be attached to the Court of such Vice Chancellor and his Successors in Office; and it shall be lawful for each of the said Masters so appointed Vice Chancellors to appoint Two Persons each to be the

Junior Clerks in their respective Offices, and in the Offices of their respective Successors.

Vacancies in Clerks Offices to be filled up by Clerk next in Seniority in the respective Offices.

XXXIV. When and so often as any Vacancy shall occur by Death, Resignation, or otherwise, of any of the Clerks hereby appointed or to be appointed pursuant to the Provisions of this Act, attached to the Courts of the Master of the Rolls and Vice Chancellors respectively, such Vacancy shall be filled by the Clerk next in Seniority in the Court wherein such Vacancy shall occur, to whom no sufficient Objection to the Satisfaction of the Lord Chancellor shall be made; and in all future Vacancies in the Office of Junior Clerk in each Court, the Judge of the Court in which such Vacancy shall occur shall appoint some fit and competent Person whose Age shall not exceed *Twenty-eight* Years to be such Junior Clerk.

Solicitors, &c. appointed to any Office under this Act to be struck off the Roll. 15 & 16 Vict. c. 80. s. 20.

XXXV. Every Solicitor or Attorney who shall be appointed to and shall accept any Office under this Act shall cease to be an Attorney or Solicitor, and shall forthwith procure himself to be struck off the Roll of Solicitors of the High Court of Chancery, and off the Roll of any of Her Majesty's Courts of Record in Ireland on which his Name may be.

Vice Chancellors to appoint a Crier.

XXXVI. It shall be lawful for each and every of the Vice Chancellors for the Time being respectively to appoint a Person to be respectively attached to each of their said Courts constituted under this Act, for the Purpose of keeping Order therein and performing the Duties of Crier and Tipstaff.

Act not to affect the Precedence, Rank, &c. of the Master of the Rolls.

XXXVII. Nothing in this Act contained shall prejudice, affect, or alter the Precedence, Rank, Power, Patronage, Emoluments, or other Rights, Privileges, and Powers incident to or heretofore enjoyed by the Master of the Rolls.

Act not to affect the Rights of Y. O'Keeffe.

XXXVIII. Provided that nothing in this Act contained shall affect the Rights of Yelverton O'Keeffe as One of the Joint Registers of the Court of Chancery.

Salaries to Chief and other Clerks in the Master of the Rolls and Vice Chancellors Offices.

XXXIX. The Salaries of the said Chief Clerks shall be the yearly Sum of *Eight hundred Pounds* Sterling each, the Salaries of the said Second Clerks or Registrars shall be the yearly Sum of *Six hundred Pounds* Sterling each; and such respective Salaries shall be in lieu of the respective Salaries or Allowances payable to the respective Clerks of the senior Three Masters, under an Act passed in the Fourteenth and Fifteenth Years of the Reign of Her present Majesty, intituled

"An Act to regulate the Proceedings in the High Court of Chancery "in Ireland;" the Salaries of such Junior Clerks shall be the yearly Sum of *Three hundred Pounds* Sterling each, and the Salaries of such Criers and Tipstaffs shall be the yearly Sum of *Sixty Pounds* Sterling each; and all the said Salaries shall be paid out of such Funds as may be provided by Parliament, and shall be paid and payable in such Manner and on such and the same quarterly Days, and subject to such Regulations as to proportionable Parts at the Commencement and the Termination thereof, as is herein-before provided in respect to the Payment of the Salaries of the Vice Chancellors herein-before provided.

Retiring Allowances to Clerks in Master of the Rolls and Vice Chancellors Offices.

XL. All and every the said several Clerks hereby appointed and to be from Time to Time appointed under the Authority of this Act, in the respective Courts of the Master of the Rolls and Vice Chancellors respectively, who shall hereafter resign his Office with the Sanction and under the Authority of the Lord Chancellor, or shall be removed therefrom by the Lord Chancellor in consequence of his being permanently incapable, from Infirmity of Mind or Body, to discharge the Duties thereof, shall be entitled to receive such Superannuation Allowance as the Commissioners of Her Majesty's Treasury shall think proper to direct; and in ascertaining and awarding the Amount of such Superannuation Allowance the said Commissioners shall take into consideration the whole Period during which any such Person shall have been permanently employed in the said Court, and shall proceed according to the Principle laid down by an Act passed in the Fifth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act to alter, amend, and consolidate the Laws for "regulating the Pensions, Compensations, and Allowances to be "made to Persons in respect of their having held Civil Offices in His "Majesty's Service;" and all such Sums and Allowances which shall be so awarded and granted under the Authority aforesaid shall be paid and payable and be charged and chargeable in the same way as is herein-before provided in respect of the Salaries of the said several Clerks: Provided always, that nothing herein contained shall prejudice the Right of the Examiners of the Three Senior Masters in Ordinary of the said Court hereby appointed Vice Chancellors, and which Examiners are hereby appointed Chief Clerks to such Vice Chancellors, to retire from the respective Offices to which they are appointed by this Act, after the Period of Service and upon the other Terms contained in an Act passed in the Fifteenth Year of Her present Majesty's Reign, intituled an "An Act to regulate the Proceedings in the High "Court of Chancery in Ireland."

Chief and Second Clerks in the Master of the Rolls and Vice Chancellors Courts to take Affidavits, &c.

XLI. From and after *the Commencement of this Act* it shall and may be lawful for the several Chief Clerks, and also the Second Clerks or Registrars to the Master of the Rolls and Vice Chancellors respectively, and all other Persons who may hereafter be appointed Chief Clerks, and Second Clerks or Registrars to the Master of the Rolls respectively, or to any future Master of the Rolls or Vice Chancellor, while they shall respectively continue to hold their respective Offices, and they are hereby fully authorized, empowered, and directed to administer Oaths, and to take Affirmations, Declarations, or Attestations of Honour, Examinations, or other Matters whatever to be put in on Oath in the said Court of Chancery; and all Persons swearing, declaring, affirming, or attesting before any of such Persons so by this Act authorized to administer Oaths and take Declarations, Affirmations, or Attestations of Honour, shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing, declaring, affirming, or attesting contained therein, as if the same had been sworn, declared, affirmed, or attested before any Person now by Law authorized to administer Oaths, and to take Declarations, and receive Affirmations.

Construction of Terms.

XLII. In the Construction of this Act the Expression "Lord Chancellor" shall mean and include the Lord Chancellor, Lord Keeper, and Lords Commissioners of the Great Seal of Ireland for the Time being.

Commencement of Act.

XLIII. This Act shall commence and take effect from and after the

Court of Chancery (Ireland) (Jurisdiction).

A

BILL

To make Provision for the more speedy and effectual Despatch of Business in the High Court of Chancery in Ireland.

(Prepared and brought in by
Mr. Whiteside and Mr. Napier.)

Ordered, by The House of Commons, *to be Printed,*
4 *February* 1856.

[Bill 9.]

Under 2 oz.

Court of Chancery (Ireland) (Procedure) Bill.

ARRANGEMENT OF CLAUSES.

Continues Chancery Act of 1850, and all General Orders not inconsistent with the present Act; Sect. 1.

In certain Cases, Petition to be in the Form in Schedule; 2.

If Petition not framed according to Form increased Costs to be paid by Petitioner; 3.

Petition and Affidavit to be drawn concisely; Petitions to be signed by Counsel; the Court to make Order as to Costs occasioned by Prolixity; 4.

Statements in Petitions and Affidavits to be divided into Paragraphs and numbered consecutively, and Interrogatories Respondent is required to answer to be specified in a Note at Foot; 5.

Respondent not to object for Want of Parties to any Suit to which the Rules herein set forth extend; 6.

The Court may proceed in any Suit without Representative of deceased Person, or may appoint one; 7.

Costs of Motion to annex or file Interrogatories, under Eighth Section of Chancery Regulation Act, to stand until the Hearing; 8.

Where Petition prays for a Sale of Lands, or for an Account of Personal Estate, the Owner of the Land, or the Person representing the Personal Estate, only to be Respondent; 9.

Definition of the Term "Owner of the Land"; 10.

Petition to be verified by Affidavit of Petitioner unless in Cases after mentioned; 11.

Petition filed by Attorney or Solicitor General, in official Capacity, not to be verified, but when there is a Relator to be verified by him; 12.

Petitions by Persons of unsound Mind, and Corporations, how to be verified; 13.

Short Form of Affidavit to be adopted; 14.

When Petitioner unable to verify Petition, the Mode of Verification; 15.

Application for, and giving Security for Costs when Petitioner out of Jurisdiction; 16.

A written Authority to be signed by "next Friend" or Relator, and filed with Petition; 17.

Every Cause, Matter, &c., involving a Reference, to be set down and heard before the Master of the Rolls or a Vice Chancellor, unless the Lord Chancellor shall otherwise order; 18.

Petitions, &c., not being in a Cause which may have been attached in Courts of Master of the Rolls or Vice Chancellors, to be heard before Lord Chancellor, unless otherwise provided; 19.

When Causes, &c., are to be heard before the Master of the Rolls or Vice Chancellor, the Clerk of Appearances to stamp the Petition with the Name of One of such Judges in rotation, and at the same Time to Stamp a Copy for the Office of such Judge; 20.

When Causes, &c., to be heard before the Lord Chancellor, the Clerk of Appearances to stamp Petitions accordingly; 21.

All Petitions not being Cause Petitions to be stamped by Clerk of Appearances; 22.

Upon filing Cause Petitions in Rolls Office, an Entry to be made of certain Particulars; 23.

Notice of filing Cause Petition to be given to Respondents in all Cases; 24.

Notice of filing Cause Petition to be in the Form in Schedule B.; 25.

Service of Respondent out of the Jurisdiction of the Court; 26.

Memorandum of Service of Notice on Respondent to be entered with Clerk of Appearances; 27.

Time within which answering Affidavits may be filed; if no answering Affidavit Proceedings to set down Cause; 28.

Order giving Liberty to file Interrogatories shall state Time within which they shall be answered; Answer to be in the Form in Schedule C.; 29.

Affidavit by Respondent to be in Form in Schedule C., and signed by Counsel; if he requires Petitioner's Proofs to be made vivâ voce he shall add a Requisition to that Effect; 30.

Costs of improper Defence to be paid by Respondent or his Solicitor, as the Court may think fit; 31.

Petitioner to lodge with his Solicitor all Deeds, &c. Respondent to be at liberty to inspect and take Abstracts, and obtain Copies on Payment of 1½*d.* per Folio; 32.

If Respondent's Answer does not put Petitioner on Proof of Facts or Documents, Petitioner may set down Cause for Hearing; 33.

If Matters of Fact or Documents disputed by Petitioner or Respondent, Petitioner to serve Notice in the Form in Schedule D., and the Cause to be then deemed at Issue; 34.

Matters of Fact and Documents stated in answering Affidavit, if not disputed, shall be taken to be admitted; 35.

Costs of Proof of Matters unnecessarily contested; 36.

Election of Mode of Proof in certain Cases; 37.

The present Mode of Examination of Witnesses abolished, Witnesses to be examined orally, with Power to the Judge to direct Examination upon Interrogatories; 38.

Examination of Witnesses de bene esse, and to perpetuate Testimony, to be oral as in previous Section, unless the Court shall otherwise order; 39.

Oral Examination of Witnesses, how to be conducted; 40.

Commissions for Examination of Witnesses abolished, and Appointment by Order substituted; 41.

Commissioner to take the Oath herein prescribed; 42.

Depositions taken by Special Commissioner, how to be returned; 43.

Examination of Witnesses in England and Scotland, how to be conducted; 44.

Affidavits and Proceedings in Chancery where Parties resident in Foreign Parts, how to be taken; 45.

Penalty for false swearing, &c.; 46.

Penalty for forging Signature or Seal of Judge, &c.; 47.

Subpœna ad testificandum and Subpœna duces tecum abolished, and Notice substituted; 48.

Summons to compel Attendance of Witnesses to be signed by Judge's Registrar; 49.

Notice of vivâ voce Examination may be served by Petitioner or Respondent after Issue joined; Examination when commenced to be proceeded with until concluded; 50.

Depositions to be taken in Writing in Form of a Narrative, and read over to and signed by Witness; if Witness refuse to sign Examiner to sign them; Costs of irrelevant Depositions; 51.

Practice when Witness refuses to be sworn or examined or demurs; 52.

Evidence to be closed on both Sides within *Nine Weeks* after Issue joined, no further Examination or Affidavit permitted. Witness who has made an Affidavit may be cross-examined and re-examined. Expenses of Cross Examination, &c.; 53.

Forty-eight Hours Notice of cross-examining a Witness who has made an Affidavit to be given; 54.

Upon the Hearing of a Cause the Court may require the Production and oral Examination of any Witness or Party, and determine as to Costs thereof; 55.

Any Party may require the Attendance of a Witness before an Examiner to be examined, to use the Evidence on a Motion; 56.

Examination of Witnesses upon Interrogatories to be regulated by the General Orders of 27th March 1843; 57.

Petitioner or Respondent may proceed with Examination on Interrogatories before passing Publication; 58.

Court at liberty to disallow Costs of examining Witnesses vivâ voce in certain Cases; 59.

Publication to pass in Nine Weeks after serving Notice of joining Issue; 60.

Petition not to be amended except by special Order; no Supplemental Petition without the Leave of the Court; 61.

When the Jurisdiction of the Court attaches on Petition, no Petition to be presented after the First; all subsequent Applications to be on Notice; 62.

When setting down Petition for Hearing, Solicitor for Petitioner to lodge with the Registrar a Docket containing the Names of the Parties, &c.; 63.

In Cases not falling within the preceding Sections, Notice of setting down Cause Petition for Hearing, how to be served; 64.

Setting down Cause Petition on Proof; 65.

Respondent not entitled to Costs of appearing at Hearing without a reasonable Cause, although served with Notice; 66.

Exceptions to answering Affidavits for Insufficiency to be regulated by General Orders of 27th March 1843; 67.

Exceptions not to state Interrogatories at length, but to refer to them by Number; 68.

References for Prolixity and Impertinence abolished; 69.

Cause Petition not heard within a Year to stand dismissed without Order unless Time extended by *the Court;* Power to the Court to restore it: 70.

If Petitioner does not proceed, Respondent may move to dismiss Petition for Want of Prosecution after One Month from Time Petitioner might have set it down; 71.

Respondent may set down Cause if Petitioner does not; 72.

The Court on Special Motion to be at liberty to order a Person not a Party to a Petition to bring in Deeds, &c., subject to Lien, and if the Affidavit by such Person be defective or evasive, Court may permit Interrogatories for his Examination; 73.

When necessary Parties not in the first instance served with Notice of the Petition, the Court may at any Stage direct further Service. Notice to be in the Form in Schedule F., and the Party so served shall be bound by the Proceedings; 74.

A Copy of the Order to bind Parties to be lodged in the Rolls Office; 75.

Every Person filing a Claim to be deemed a Party to the Petition, Abatement not caused by Death, &c.; 76.

Notices of Motion, how to be entitled, in addition to Parties Names; 77.

Cause Petitions, answering Affidavits, and Answers to Interrogatories, to be filed in Rolls Office; all other Affidavits to be filed in Office of Clerk of Affidavits; 78.

Side-bar Rules; 79.

Court empowered to enlarge Time, and make Amendments in any Proceeding; 80.

No Reference to be made except by the Lord Chancellor, no Reports to be made by the Master of the Rolls and Judges, who are to make all necessary Decrees and Orders, and conduct Inquiries; 81.

Proceedings at Hearing of Cause; Parties to be prepared to proceed to a final Adjudication when practicable; 82.

Further Hearing when Cause stands over for an Account or Inquiry, &c.; 83.

Making Proofs or further Proofs subsequent to Hearing, the Court to direct the Mode and limit the Time; 84.

Accounts to be taken by Chief Clerk, but he is not to make any formal Report thereon; 85.

Course of Proceeding to be the same as on Motion, Charges, &c. abolished; 86.

Proceedings by Summons abolished, Notices substituted; 87.

Accounting Party to lodge Account, verified by Affidavit, without Charge or Discharge being filed; if Account not passed within Time limited Proceedings by Attachment for Default; 88.

Parties to be at liberty to object to Account; 89.

Postings for Sales, &c., to be signed by Chief Clerk, who is to direct Time and Mode of Publication, and to ascertain if Directions have been complied with; 90.

Creditors, &c. coming in to prove Demands, to file a Claim in the tabular Form in the Schedule; 91.

Claimants to file their Claims and give Notice; no separate Hearing of Claims; 92.

Parties interested may lodge Objections to Claim, the Costs to be paid as the Judge shall direct; 93.

Claims to be investigated primarily by the Chief Clerk of the Judge, who shall pass the same where no Question arises, Case to be then set down for Hearing before the Judge as to controverted Points; 94.

If the Solicitor having the Carriage of the Proceedings does not set down Case for Investigation before Judge's Chief Clerk, any Respondent or Creditor may do so; 95.

In case no Claims lodged, Case may be set down before the Judge for a final Order; 96.

All Decrees, Orders, &c. of the Master of the Rolls and Judges to be made up by the respective Registrars, and may be appealed from without Exception or Objection; 97.

Appointment of Perambulators in Partition Cases to be made without Commission; 98.

Chief Clerk of Judge shall not proceed with Sale until satisfied that the Directions for Publication of Posting have been complied with; 99.

Chief Clerk to hold all Sales, except they are to be in the Country; 100.

Confirming Sale; if Purchaser does not lodge Purchase Money, Proceeding by Attachment to compel him to do so; 101.

Objections may be taken to Title without Order; 102.

Purchaser who has lodged his Purchase Money not filing Objections to the Title within One Month, the Title to be deemed accepted; 103.

Conveyance to a Purchaser to be prepared as between the Parties, and executed by the Judge only; Parties to be bound thereby; 104.

Conveyance to be exempt from Stamp Duty; 105.

Purchaser not to be at liberty to object to the Title for Want of Parties to the Suit in certain Cases; 106.

All Affidavits to be expressed in the First Person; 107.

Affidavits to be divided into Paragraphs and numbered; 108.

Suit not to be dismissed for Misjoinder of Petitioners, but the Court may modify its Decree according to special Circumstances; 109.

Suit not to be objected to because only a declaratory Decree is sought; 110.

Court may decide between some of the Parties without making others interested Parties to the Suit; 111.

Court may order Real Estate to be sold at any Time after Institution of a Suit; Parties having Charges on the Estate to have the same Lien on the Purchase Money; 112.

When Real or Personal Property is the Subject of Proceedings, the Court may allow the Parties Part or the whole of the annual Income pending the Proceedings; 113.

Practice as to allocating and paying out Funds; Allocation Schedule to be prepared by Solicitor and submitted to Chief Clerk of Judge, and Notice of Lodgment thereof to be served on all the Parties, &c.; 114.

Objections may be lodged to Allocation Schedule until within a Week of Hearing; 115.

Masters Approbation of Transfer of Stock, &c. to be discontinued; 116.

In case the Directions as to Practice, &c., in this Act contained, are not followed by Mistake of Parties, the Court may make an Order to rectify, and award Costs; 117.

The Court of Chancery not to direct Cases for the Opinion of Courts of Law, but decide same; 118.

The Court may determine legal Title of Party seeking Relief, without requiring Parties to proceed at Law; 119.

The Lord Chancellor and Judges to make General Orders for carrying Act into effect; 120.

Compensation to Officers for Diminution of Emoluments; 121.

Fees now payable by Suitors and certain Duties of Stamps abolished; 122.

Commissioners of Inland Revenue to give the necessary Directions as to the Stamps, to keep separate Accounts, and pay Monies into Suitors Fee Fund; 123.

Provisions of former Acts relating to Stamps to be applicable to Stamps under this Act; 124.

No Document to be received or used unless stamped; 125.

Officers guilty of Fraud or wilful Neglect in relation to Stamps liable to be dismissed; 126.

Certain Fees payable to Lord Chancellor and other Officers of the Court in respect of Patents and other Matters continued; 127.

Officers whose Fees are abolished to be paid by annual Salaries; 128.

Salaries; 129.

Officers to receive Fees in Schedule H. and pay same into the Suitors Fee Fund; 130.

Lord Chancellor empowered to order Payment of Expense of Officers, &c.; 131.

Construction of Terms; 132.

SCHEDULES.

4 *February* 1856. 19 Vict.

(Ireland.)

A

BILL

TO

Amend the Practice and Course of Proceeding in the High Court of Chancery in Ireland.

Preamble. 13 & 14 Vict. c. 89.

WHEREAS an Act was passed in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, intituled "An Act to regulate the Proceedings in the High Court "of Chancery in Ireland:" And whereas it is expedient further to amend the Practice thereof: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Act 13 & 14 Vict. c. 89. continued except where altered by this Act.

I. The said recited Act, and all Orders made thereunder or by virtue of any other Authority, shall be continued in full Force, except where the same shall be altered, amended, or are inconsistent with the Provisions of this Act.

Petitions under 13 & 14 Vict. c. 89. in the several Cases mentioned, shall be in the short Form.

II. Where any Person shall apply to the Lord Chancellor by Petition under the Provisions of the said recited Act, in any Case where the Petitioner is or claims to be,

A legal or equitable Mortgagee or Person entitled to a Charge or Incumbrance affecting Property, seeking Foreclosure and Sale, or Sale, or otherwise to enforce his Security:

A Person entitled to a Rentcharge, and seeking to have the Arrears thereof paid by the Appointment of a Receiver, or by the Sale of the Lands on which the Rentcharge is charged:

A Person entitled to redeem any legal or equitable Mortgage or any Lien seeking to redeem same:

A Creditor upon the Estate of a deceased Person seeking Payment of his Debt out of the Deceased's Real and Personal Assets:

A Legatee upon the Estate of a deceased Person seeking Payment of his Legacy out of the Deceased's Real and Personal Assets:

A Creditor upon the Estate of a deceased Person seeking Payment of his Debt out of the Deceased's Personal Assets:

A Legatee under the Will of any deceased Person seeking Payment or Delivery of his Legacy out of the Deceased's Personal Assets:

A Residuary Legatee, or One of the Residuary Legatees, of any deceased Person seeking an Account of the Residue and Payment or Appropriation of his Share therein:

The Person or any of the Persons entitled to the Personal Estate of any Person who may have died intestate, and seeking an Account of such Personal Estate and Payment of his Share thereof:

An Executor or Administrator of any deceased Person seeking to have the Personal Estate of such deceased Person administered under the Directions of the Court:

A Person entitled to the specific Performance of an Agreement for the Sale or Purchase of any Property seeking such specific Performance:

A Person entitled to an Account of the Dealings and Transactions of a Partnership dissolved or expired seeking such Account:

A Person entitled to an equitable Estate or Interest and seeking to use the Name of his Trustee in prosecuting an Action for his own sole Benefit:

The Petition in the said several Cases shall be in the Form and to the Effect set forth in Schedule A. hereunto annexed, as applicable to the particular Case, or as near thereto as Circumstances may permit; but if any of the Cases herein-before enumerated involve or are attended by such special Circumstances affecting either the Estate or the personal Conduct of the Respondent as to require special Relief, or if it be necessary that other Matters should be stated and put in Issue in addition to those contained in the said Forms respectively, the Petitioner shall be at liberty to frame his Petition accordingly.

III. If a Petition for any of the Purposes to which the Forms set forth in Schedule A. are applicable shall be framed otherwise than in accordance with the Form applicable thereto, and it shall appear to the Court on the Hearing of such Petition that the Petition should have been framed to the Effect of the Form in the said Schedule applicable to the Case, the Court may order that the increased Costs occasioned by such Proceeding beyond the Amount of Costs which would have been sustained in proceeding according to the said Forms shall be borne and paid by the Petitioner.

Petitions and Affidavits to be drawn as concisely as is possible, and all Petitions shall be signed by Counsel.

IV. Every Petition herein-before enumerated, which shall not be in the Form or to the Effect set forth in Schedule A., as applicable to the particular Case, and also all other Petitions and all Affidavits filed under the said Act, shall be drawn without Repetitions, Impertinence, Prolixity, or Scandal, and such Parts of Records, Deeds, and Documents as shall be pertinent and material shall be alone set out therein; and such Parts so set out, as well as all other Matters contained in any Petition or Affidavit, shall be abstracted and stated as concisely as possible consistently with a clear Statement of the Facts; and every Petition filed under the said Act shall be signed by Counsel; and if the Court shall on the Hearing of the Petition be of opinion that any Petition or Affidavit is prolix or scandalous, the Court may make such Order in respect to the Costs occasioned by such Prolixity or Scandal as to the Court shall seem fit.

Statements in Petitions and Interrogatories to be divided into short and separate Paragraphs, and numbered consecutively.

V. The Statements in all Petitions under the said Act shall be divided into short and separate Paragraphs as conveniently as may be, which shall be numbered consecutively 1, 2, 3, &c.; and the Interrogatories, if any, which shall be annexed to the Petition or filed shall also be divided in like Manner and numbered consecutively, beginning from the last Number of the Paragraphs in the Statement; and such of the Interrogatories, if any, as each Respondent is required to answer shall be specified in a Note at Foot of the Interrogatories or Petition, in the Form or to the Effect following; that is to say, "the "Respondent C. D. is required to answer the Interrogatories numbered "respectively 11, 12, 13, &c. (or as the Case may be); and the "Respondent E. F. is required to answer the Interrogatories numbered "respectively 14, 15, &c. (or as the Case may be.)"

Respondent not to take Objection for Want of Parties in any Case to which Rules herein set forth shall extend.

VI. It shall not be competent to any Respondent in any Suit in the said Court to take any Objection for Want of Parties to such Suit in any Case to which the Rules next herein-after set forth extend; and such Rules shall be deemed and taken as Part of the Law and Practice of the said Court and any Law or Practice of the said Court inconsistent therewith shall be and is hereby abrogated and annulled:

15 & 16 Vict. c. 86. s. 42.

Rule 1. Any Residuary Legatee or next of Kin may, without serving the remaining Residuary Legatees or next of Kin, have a Decree or Order for the Administration of the Personal Estate of a deceased Person.

Rule 2. Any Legatee interested in a Legacy charged upon Real Estate, and any Person interested in the Proceeds of Real Estate directed to be sold, may, without serving any other Legatee or Person interested in the Proceeds of the Estate, have a Decree or Order for the Administration of the Estate of a deceased Person.

Rule 3. Any Residuary Devisee or Heir may, without serving any Co-residuary Devisee or Co-heir, have the like Decree or Order.

Rule 4. Any one of several Cestuisque Trust under any Deed or Instrument may, without serving any other Cestuisque Trust, have a Decree or Order for the Execution of the Trusts of the Deed or Instrument.

Rule 5. In all Cases of Suits for the Protection of Property, pending Litigation, and in all Cases in the Nature of Waste, One Person may sue on behalf of himself and of all Persons having the same Interest.

Rule 6. Any Executor, Administrator, or Trustee may obtain a Decree or Order against any one Legatee, next of Kin, or Cestuique Trust for the Administration of the Estate or the Execution of the Trusts.

Rule 7. In all the above Cases, the Court, if it shall see fit, may require any other Person or Persons to be made a Party or Parties to the Suit, and may, if it shall see fit, give the Conduct of the Suit to such Person as it may deem proper, and may make such Order in any particular Case as it may deem just for placing the Respondent on the Record on the same Footing in regard to Costs as other Parties having a common Interest with him in the Matters in question.

Rule 8. In all the above Cases, the Persons who according to the present Practice of the Court would be necessary Parties to the Suit shall be served with Notice of the Decree or Order, and after such Notice they shall be bound by the Proceedings in the same Manner as if they had been originally made Parties to the Suits, and they may, by an Order of Course, have Liberty to attend the Proceedings under the Decree or Order; and any Party so served may, within such Time as shall in that Behalf be prescribed by the General Order of the Lord Chancellor, apply to the Court to add to the Decree or Order.

Rule 9. In all Suits concerning Real or Personal Estate which is vested in Trustees under a Will, Settlement, or otherwise, such Trustees shall represent the Persons beneficially interested under the

the Trust, in the same Manner and to the same Extent as the Executors or Administrators in Suits concerning Personal Estate represent the Persons beneficially interested in such Personal Estate; and in such Cases it shall not be necessary to make the Persons beneficially interested under the Trusts Parties to the Suit; but the Court may, upon Consideration of the Matter on the Hearing, if it shall so think fit, order such Persons, or any of them, to be made Parties.

Court may proceed in any Suit, and without Representative of deceased Person, or may appoint one.

15 & 16 Vict. c. 86. s. 44.

VII. If in any Suit or other Proceeding before the Court it shall appear to the Court that any deceased Person who was interested in the Matters in question has no legal Representative, it shall be lawful for the Court either to proceed in the Absence of any Person representing the Estate of such deceased Person, or to appoint some Person to represent such Estate for all the Purposes of the Suit or other Proceeding, on such Notice to such Person or Persons, if any, as the Court shall think fit, either specially or generally by public Advertisement; and the Order so made by the Court, and any Orders consequent thereon, shall bind the Estate of such deceased Person in the same Manner in every respect as if there had been a duly constituted legal personal Representative of such deceased Person, and such legal Representative had been a Party to the Suit or Proceeding, and had duly appeared and submitted his Rights and Interests to the Protection of the Court.

Costs of Motion to annex or file Interrogatories under Eighth Section of Act, and Proceedings thereupon.

VIII. If a Motion shall be made under the Eighth Section of the said-recited Act for Liberty to annex Interrogatories to any Petition presented under the said Act, or to any Affidavit filed by way of Answer to such Petition, or to file Interrogatories to be answered by the Petitioner or Respondent respectively, and the Court shall make an Order giving Liberty to annex or file the same, the Court may by such Order direct that the Consideration of the Costs of the said Motion and Order, and of such Interrogatories and the Proceedings thereon, and of the Liability of the Petitioner to pay the additional Costs occasioned by such Interrogatories, shall stand over until the Hearing of the said Petition.

Parties to be made Respondents and served where a Petition prays for the Sale of Land.

IX. In all Cases in which the Petition prays for the Foreclosure and Sale or for the Sale of Land for the Payment of Incumbrances, it shall not be necessary for the Petitioner to make any Person Respondent in the said Petition save the Owner of the Land, and where such Petition seeks an Account of Personal Estate the Person representing such Personal Estate; and it shall not be necessary to serve any other Person with Notice of such Petition, unless the Court shall otherwise direct; and if the Petitioner shall make any other

Person a Respondent, the Costs occasioned thereby, and the Costs of all Proceedings consequential thereon shall be paid by the Petitioner, unless the Court shall otherwise direct.

Definition of the Term "the Owner of the Land."
12th General Order of 31st July 1851 (Irish).

X. The Term "the Owner of the Land," as herein-before used, shall mean any Person, save as herein-after mentioned, who by the Rules and Practice of Courts of Equity in Ireland is a necessary Party to a Suit for the Foreclosure and Sale or for the Sale of Lands for the Payment of Incumbrances: Provided always, that no Incumbrancer, whether by Mortgage or otherwise, or any Person in whom any Estate shall be vested solely as a Trustee for such Incumbrancer, shall be deemed to be "the Owner of the Land" as aforesaid, unless such Incumbrancer shall be in the actual Possession or Receipt of the Rents and Profits of the said Lands otherwise than by a Receiver or Sequestrator appointed by the Court.

Petition to be verified by Petitioner, unless in certain Cases.

XI. Petitions under the said Act shall be verified by the Affidavit of the Petitioner, unless as herein-after mentioned.

Petitions by Attorney or Solicitor General need not be verified unless as herein stated.

XII. Petitions under the said Act filed by the Attorney or Solicitor General in his official Character, and where there shall be no Relator, need not be verified, but where there shall be a Relator the Petition shall be verified by the Affidavit of such Relator.

Petitions by Persons of unsound Mind, and Corporations, how verified.

XIII. Petitions under the said Act filed in the Name of a Person found to be of unsound Mind shall be verified by the Affidavit of the Committee of such Person, when filed by a Corporation by the Affidavit of any Officer of the said Corporation.

Short Form of Affidavit. when to be adopted.

XIV. Every Petition to be presented under the said Act, save as next herein-after mentioned, may be verified by Affidavit annexed thereto or subscribed at Foot thereof, to the Effect set out in the Schedule annexed to the said Act, and no Costs of any further or additional Affidavit in verification in the first instance shall be allowed, except in Injunction Petitions, unless specially allowed by the Court.

Mode of Verification, where Petitioners are unable to do so.

XV. Where the Petitioner or other Person herein-before authorized to verify the Petition is unable, by reason of Absence from the United Kingdom, or from being an Infant, or from any other Cause, to verify the same, any Person acquainted with the Facts shall be at liberty to make the Affidavit to verify; but such Affidavit shall not be in the short Form set forth in the Schedule to the Act, but in such Cases an Affidavit shall be filed with the Petition stating the special Reasons why such verifying Affidavit is not annexed, and containing such Statements in verification of those stated in the Petition as it may be in the power of the Person making such Affidavit to depose to; and the written Authority of the Petitioner or other Person who shall have directed the Solicitor to present such Petition shall be also verified; and if the Court shall be of opinion on the Hearing of the Petition that the Petition should have been verified in the Manner authorized and directed by the Eleventh, Twelfth, Thirteenth, and Fourteenth Sections, or in any other Manner, the Court may make such Order as to the further Verification of the Petition, and as to the Costs consequent thereon, as to the Court shall seem just.

Only One Motion for Security for Costs.

XVI. In every Case in which there shall be more than One Defendant to a Bill or Respondent to a Petition, and in which an Application shall be made to the Court to oblige the Plaintiff or Petitioner residing out of the Jurisdiction to give Security for Costs, the Judge or Officer who shall fix the Amount of such Security shall estimate a sufficient Sum as such Security for the Costs of all the Defendants or Respondents, unless any Party shall forego his Right to such Security, in which Case an adequate Sum shall be fixed as Security for the Costs of the remaining Parties, and no further Application for such Purpose shall be entertained, save at the Instance of any Person who shall subsequently be made a Respondent, and all further Proceedings in such Cause shall be stayed until such Security be given.

Person whose Name is used as next Friend of any Infant, &c. in any Suit, &c., to sign a written Authority. 15 & 16 Vict. c. 89. s. 9.

XVII. Before the Name of any Person shall be used in any Suit or Matter to be instituted in the said Court as next Friend of any Infant, married Woman, or other Party, or as Relator in any Information, such Person shall sign a written Authority to the Solicitor for that Purpose, and such Authority shall be filed with the Cause Petition.

Every Cause Matter, or Proceeding involving a Reference, shall be set down before a Vice-Chancellor or the Master of the Rolls in the first instance.

XVIII. From and after the Time herein-after appointed for the Commencement of this Act, every Cause, Cause Petition, or Proceeding, whether in Minor or Lunatic Matters, or under any Statute, or otherwise (except Matters in Bankruptcy), which from their Nature would in the ordinary Course of the Court before the passing of this Act have required or involved a Reference to a Master in Ordinary to take an Account or to make any other Investigation, Inquiry, or Report, shall be heard in the first instance, or shall be moved (as the Case may be) before the Master of the Rolls or One of the Vice-Chancellors of the Court; and all such Causes, Matters, or Proceeding shall be so set down before the said Judges respectively in the Manner herein-after provided as each Case shall be presented to the Registrar or One of the Clerks of the Judge in whose Court such

Cause, Cause Petition, Matter, or Thing shall have been attached for that Purpose; provided nevertheless, that no such Cause, Matter, Application, or Proceeding shall be heard or set down to be heard by such Judge if the Lord Chancellor shall direct the same to be heard before himself, whether by a General Order or by special Order in the particular Case obtained upon an Application for that Purpose.

Petitions not in a Cause or Matter attached to Vice Chancellor's Court, how to be heard.

XIX. Every Petition or Motion not being in a Cause or Matter which may have been attached in the Courts of the Master of the Rolls or One of the Vice Chancellors, in manner herein provided, shall be heard before, or an Order made thereon by, the Lord Chancellor, unless otherwise provided by a General Order of the Court, or by the special Direction of the Lord Chancellor in the particular Case.

Clerk of Appearances to stamp Bill or cause Petition with the Name of One of the Judges.

XX. In all Causes or Cause Petition Matters which from their Nature are to be heard before the Master of the Rolls or One of the Vice Chancellors as aforesaid, the Clerk of the Appearances shall stamp the Bill or Cause Petition, as for that Purpose, with the Name of some One of such Judges according to Rotation as such Bills or Petitions shall be presented to him; and the Solicitor, on filing every such Bill or Petition, shall lodge in the Rolls Office a fair Copy of the same, also stamped by the Clerk of Appearances with the Name of the Judge of the Court to which the same shall be so attached, and such Copy shall be forthwith transmitted from the Rolls Office to the Office of the Registrar of such Judge.

Petitions to be heard before the Lord Chancellor to be marked by the Clerk of Appearances accordingly

XXI. In all Cases where Petitions are to be heard before the Lord Chancellor, the Clerk of Appearances shall stamp the same accordingly, and shall at the same Time stamp the Name of One of the Judges in rotation to whose Court it shall be attached for Performance of the Duties prior to the Hearing, heretofore discharged by a Master in Ordinary, and also in case the Lord Chancellor shall make any Reference at the Hearing thereof.

Petitions not being Cause Petitions, to be moved before the Master of the Rolls or Vice Chancellors to be stamped by the Clerk of Appearances.

XXII. All Petitions (not being Cause Petition Matters) which from their Nature are to be moved before the Master of the Rolls or One of the Vice Chancellors as aforesaid, and which according to the present Practice of the Court are presented through the Secretary to the Lord Chancellor or the Secretary to Lunatics, shall be stamped by the Clerk of Appearances with the Name of some One of such Judges according to Rotation as such Petitions shall be produced to him for that Purpose; and if the Lord Chancellor shall not direct the same to be moved before himself, or shall make a Reference thereon, the Petition shall be forthwith transmitted to the Registrar of the

Judge to whose Court such Matter has been attached in manner aforesaid.

Entry of Petition in Rolls Office.

XXIII. Upon the filing of every Petition in the Rolls Office, an Entry shall be made in a Book, to be kept for that Purpose, of the Date of the filing, the Names of the Parties, and of the Counsel and Solicitor who signed it, the Judge to whose Court the same has been attached, and the Number of Folios contained in it, which Book shall be open to the Inspection of the Public during Office Hours without Fee; and to enable the Officer to make such Entry, the Solicitor who files the Petition shall cause to be endorsed legibly on the Back thereof the Names of the Parties, Petitioner, and Respondents therein, and the Number of Folios contained in such Petition.

Notice of filing Cause Petition to be given in all Cases.

XXIV. Upon the filing of every Cause Petition (whether the same shall fall within the Cases enumerated in the Fifteenth Section of the said recited Act or not) a Notice shall be served upon all the Respondents thereto, in the Form as herein-after next is provided, and all the Respondents who shall be so served with such Notice shall be bound by the Proceedings in such Case from the Time of such Service, and any Respondent who shall have been served with such Notice and shall not enter or cause to be entered an Appearance according to the usual Practice of the Court, shall not be entitled to any further Notice of the Proceedings in such Cause Petition Matter until an Appearance shall be entered in manner herein-before mentioned, and any such Respondent shall be at liberty to enter an Appearance at any Stage of the Proceedings without any Rule or Order for that Purpose, and thereupon, and after Service of Notice of such Appearance, the Party entering such Appearance shall be entitled to be served with Notice of all Proceedings in the Petition Matter which may be taken subsequent to entering such Appearance without Prejudice to any Proceeding prior thereto.

Form of Notice of filing Petition under the Act.

XXV. The Notice of filing a Petition under the said Act shall be in the Form and to the Effect in that Behalf set forth in Schedule B. hereunto annexed, with such Variations as Circumstances may require; but the Court shall not be bound to set aside or stay the Proceedings in consequence of any Inaccuracy in the Notice, unless the Court shall consider that the Respondent was misled thereby, and unless the Court shall so think fit.

Service of Respondent out of the Jurisdiction.

XXVI. Where a Respondent in any Suit is out of the Jurisdiction of the Court,

1. The Court, upon Application, supported by such Evidence as shall satisfy the Court in what Place or Country such Respon-

dent is or may probably be found, may order that the Notice of moving the Cause Petition may be served on such Respondent in such Place or Country, or within such Limits as the Court thinks fit to direct:

2. Such Order is to limit a Time (depending on the Place or Country within which the Notice is to be served) after Service of the Notice, within which such Respondent is to file his Affidavit by way of Answer to the Petition.
3. At the Time when such Notice shall be served the Petitioner shall also cause such Respondent to be served with a Copy of the Order giving the Petitioner Liberty to serve the Notice, and if the Respondent shall reside out of the United Kingdom, the Petitioner shall also cause a Copy of the Petition to be served on the Respondent.

Notice of filing Cause Petitions, how to be entered.

XXVII. That when a Respondent shall be served with Notice of filing a Petition, the Petitioner shall cause an Affidavit of the Service thereof to be filed in the proper Office of this Court; and the Clerk of the Appearances on Production of an attested Copy of such Affidavit shall permit the Petitioner's Solicitor to enter in a Book, to be kept in the Office of the Clerk of the Appearances for that Purpose, a Memorandum of such Service and of the Time when such Service was made, which Memorandum shall be in the following Form:

A. B.,
Petitioner;
C. D.,
Respondent;
and in the Matter of the Court of Chancery (Ireland) Regulation Act, 1850.

Memorandum that the Respondent C. D. was on the Day of 185 duly served with Notice pursuant to the Twenty-fifth (or Twenty-sixth as the Case may be) Sections of the "Chancery (Ireland) Procedure Act," as appears by the Affidavit of filed the day of 185 .

Dated this Day of 185 .

E. F., Solicitor for Petitioner.
(Residence.)

Course of Proceeding on Cause Petitions, where Notice of moving same shall be served.

XXVIII. Every Respondent shall be at liberty to file an Affidavit by way of Answer to such Petition within the Periods following, that is to say, within (*Twenty*) Days after the Service of Notice of the Petition, if served with Notice in Ireland, and if the Respondent is resident out of Ireland, within such Time after the Service of Notice of the Petition as the Court shall, in the Order made under the Twenty-sixth Section of this Act, direct; and if no Affidavit by way of Answer shall be filed within the said Periods respectively, or in case of Interrogatories being filed or annexed to the Petition within such Period as shall be stated in the Order of the Court, made as hereinbefore mentioned, the Petitioner shall be at liberty, at the Expiration of the said Periods respectively, or if there are several Respondents, at the Expiration of the Period within which the Affidavits by way of Answer of all the Respondents should be filed, to set down the said Petition to be heard, and upon such Hearing the Affidavit to verify shall be considered sufficient Evidence of the several Matters of Fact and Documents in the Petition stated or referred to, unless the Court shall otherwise direct, and the Respondent shall not be at liberty to file an Affidavit after the Petition shall be set down to be heard without the Leave of the Court upon special Motion: Provided always, that if the Petition shall be amended in pursuance of the Sixty-second Section of this Act, the Petition shall not be set down until the additional Time, if any, allowed to the Respondent to file his Affidavit by way of Answer to the Petition so amended, shall have expired; provided nevertheless, that nothing herein contained shall operate to prevent the Petitioner compelling the Respondents or any of them to answer any Interrogatories filed by or on his Behalf previously to setting down such Case for hearing, if he shall think proper so to do.

The Court to direct the Time within which Interrogatories shall be answered.

XXIX. If a Motion shall be made under the Eighth Section of the said Act, for Liberty to annex Interrogatories to any Petition presented under the said Act, or to any Affidavit filed by way of Answer thereto, or to file Interrogatories to be answered by the Petitioner or Respondent respectively, and the Court shall make an Order giving Liberty to annex or file the same, the Court shall, by such Order, direct the Time within which such Interrogatories shall be answered; and if such Interrogatories are to be answered by the Respondent, and an Order shall be made giving Liberty to annex or file the same before the Respondent shall have filed his Affidavit by way of Answer, the said Respondent shall answer such Interrogatories in the said Affidavit so to be filed by way of Answer in the Manner directed in Schedule C. hereunto annexed.

Form of Affidavit filed by the Respondent by way of Answer.

XXX. The Affidavit filed by the Respondent by way of Answer to the Petition shall be prepared according to the Directions contained in Schedule C. hereunto annexed, and shall be signed by Counsel, and the several Matters of Fact and Documents stated and referred to in the Petition which the Respondent shall not by his said Affidavit require the Petitioner to prove, shall be taken to be admitted by the Respondent, and Notice of the filing of such Affidavit shall be given to the Petitioner without Delay; and when the Respondent shall require to have such Proof of the Petition, or any Part thereof, made vivâ voce, he shall add a Requisition to that Effect, and if the Respondent shall only require a Portion of such Proof to be made vivâ voce, he shall specify such Part in such Requisition, which Portions

tions shall be shortly referred to by the Numbers of the Paragraphs in such Petition.

Costs of improper Defence.

XXXI. If in any of the Cases herein-before enumerated a Respondent shall file an Affidavit by way of Answer, and the Court shall upon the Hearing of the Petition consider that such Respondent had not any probable Ground of Defence or that the Respondent put the Petitioner on Proof of any Matter or Document which ought not to have been disputed, or if the Court shall consider that the Affidavit by way of Answer was filed for the Purpose of Delay, in the said several Cases the Court may make an Order at the First or other Hearing of the Petition declaring such Respondent or his Solicitor liable to pay all or such Part of the Costs incurred up to and including such Hearing as the Court may think just; and the Court shall be at liberty to make such Order although the Respondent may be a Trustee or Personal Representative, or a Party to whom Costs are usually awarded.

Petitioner shall lodge with his Solicitor all Deeds, &c., and Respondent entitled to inspect same, and to move for Copies thereof.

XXXII. The Petitioner shall at or before the Time of filing his Cause Petition lodge with his Solicitor all Deeds, Documents, and Papers stated or referred to in his Petition or the Schedules thereto which shall be in his Power, Custody, or Possession, and the Respondent shall be at Liberty, at all reasonable Times and without any Order of the Court, to inspect such Deeds, Documents, and Papers so lodged with the Petitioner's Solicitor, and to take Extracts therefrom; and the Respondent shall be at liberty without filing a Cross Petition to move that the Petitioner shall furnish the Respondent with Copies of all or any of the said Deeds, Documents, or Papers, upon Payment to the Petitioner's Solicitor therefor at the Rate of *Three Pence* for each Office Sheet of the Copies so required, and the Court shall thereupon make such Order as shall appear to the Court to be just.

Hearing of Cause when Facts not disputed.

XXXIII. If the Affidavit filed by way of Answer by the Respondent does not put the Petitioner upon Proof of any Matter of Fact or Document stated or referred to in the Petition or the Schedule thereto, and if the Petitioner does not dispute any Matter of Fact or Document stated or referred to in such Affidavit or the Schedule thereto, the Petitioner may, when the Period within which all the Respondents should file such Affidavit by way of Answer has elapsed, set down the said Petition for Hearing; and a Respondent who shall not have filed such Affidavit shall not be at liberty to do so after the Cause shall have been so set down, without the Order of the Court on special Motion.

XXXIV. If

If any Matter of Fact or Document disputed by Petitioner or Respondent, the Petitioner shall serve Notice in the Form in Schedule D.

XXXIV. If the Affidavit filed by way of Answer by the Respondent shall put the Petitioner upon Proof of any Matter of Fact or Document stated or referred to in the Petition or the Schedule thereto, or if the Petitioner shall dispute any Matter of Fact or Document stated or referred to in the Affidavit filed by way of Answer or the Schedule thereto, the Petitioner shall be at liberty to serve a Notice upon any Respondent who shall have filed such Affidavit in the Form or to the Effect in Schedule D. hereunto annexed; but such Notice, if there shall be more than One Respondent, shall not be served until after the Expiration of the Time allowed to the other Respondent or Respondents who shall not file any such Affidavit to file the same, and a Respondent who shall not have filed such Affidavit shall not be at liberty to do so after such Notice shall have been served, unless by Leave of the Court on special Motion, and from and after the Service of such Notice the Cause in which same has been served shall be deemed at issue.

Cause at issue.

The several Matters of Fact and Documents stated in the Affidavit by way of Answer, if not disputed shall be taken to be admitted.

XXXV. The several Matters of Fact and Documents stated and referred to in the Affidavit filed by the Respondent by way of Answer, which the Petitioner shall not by such Notice require the Respondent to prove, shall be taken to be admitted by the Petitioner.

Costs of Proof of Matters unnecessarily contested.

XXXVI. If the Respondent shall put the Petitioner, or the Petitioner put the Respondent, on Proof of any Matter of Fact or Document, and the Court shall at the Hearing of the Petition consider that any Matter of Fact or Document upon Proof of which the Petitioner or Respondent respectively shall have been put, ought not to have been disputed, the Court may make such Order in relation to the Costs of such Proof as to the Court may seem just.

Election of Mode of Proof in certain Cases.

XXXVII. Every Party to the Cause who shall have been put upon Proof of Facts or Documents as aforesaid by such Notice shall be at liberty at his Election to prove such Facts or Documents by Affidavit or vivâ voce, or partly by Affidavit and partly vivâ voce, unless the Party so putting him or her upon such Proof shall require him or her to make such Proof or any Part thereof vivâ voce under the Provisions of this Act.

Present Mode of Examination, so far as it is inconsistent with this

XXXVIII. The Mode of examining Witnesses in Causes or Cause Petition Matters in the said Court, and all the Practice of the said Court in relation thereto, so far as such Practice shall be inconsistent with the Mode herein-after prescribed of examining such Witnesses, and the Practice in relation thereto, shall, from and after the Time

Act, abolished.

15 & 16 Vict. c. 86. s. 28.

appointed for the Commencement of this Act, be abolished, save as herein-after otherwise specially provided, and all such Witnesses shall be examined orally in manner herein-after provided: Provided always, that the Court may, if it shall think fit, order any particular Witness or Witnesses within the Jurisdiction of the said Court, or any Witness or Witnesses out of the Jurisdiction of the said Court, to be examined upon Interrogatories in the Mode now practised in the said Court, and that with respect to such Witness or Witnesses the Practice of the said Court in relation to the Examination of Witnesses shall continue in full Force, save only so far as the same are varied by the Provisions of this Act, or as the same may be varied by any General Order of the Lord Chancellor in that Behalf or by any Order of the Court with reference to any particular Case.

Examination de bene esse, and in Suits to perpetuate Testimony.

XXXIX. The Examination of Witnesses de bene esse, and in Suits to perpetuate Testimony, shall be conducted orally in manner herein provided instead of upon Interrogatories, unless the Court shall otherwise order.

Oral Examination of Witnesses.

15 & 16 Vict. c. 86. s. 31.

XL. All Witnesses to be examined orally under the Provisions of this Act shall be so examined before One of the Examiners of the Court, or by or before an Examiner to be specially appointed by the Court, the Examiner being furnished by the Plaintiff or Petitioner with a Copy of the Bill or Petition and of the Answers or answering Affidavit or Affidavits, if any, in the Cause; and every such Examination shall take place in the Presence of the Parties, their Counsel, Solicitors, or Agents, and the Witnesses so examined orally shall be subject to Cross-examination and Re-examination, and such Examination, Cross-examination, and Re-examination shall be conducted as nearly as may be in the Mode now in use in Courts of Common Law in relation to Witnesses not expected to be present at the Trial of a Cause, and every Party to the Suit may have a Copy thereof, or any Part thereof, in like Manner as examinations upon Interrogatories.

Commissions for the Examination of Witnesses abolished.

XLI. The Practice of the said Court of issuing Commissions to Special Examiners for the Examination of Witnesses in Causes and Matters depending in the said Court be and the same is hereby abolished, and in lieu thereof, whenever it shall be necessary to appoint a Special Examiner for the Purpose of examining Witnesses, either in chief or in aid of any Inquiry in any Cause or Matter, the Judge before whom such Cause or Matter shall be pending, or to whose Court the Cause or Matter shall be attached, shall appoint such Examiner according to the present Practice of the Court relating to the Appointment of Commissioner Examiners, so far as such Practice is applicable thereto; but such Appointment is to be made by the Order of such Judge, and such Order is to state the Rate of Payment to such Examiner and the Time within which the Examination is to be closed, whenever he shall deem it necessary or expedient so to do; and every such Examiner when so appointed, and on taking the Oath herein-after mentioned, is to have full Power and Authority, subject to the present Rules and Practice in that Behalf, to summon for Examination and to examine all Witnesses produced before him for Examination in such Cause or Matter, and to call for Documents and to administer Oaths; and all Persons examined before such Examiner so appointed as before mentioned shall be subject and liable to all such Penalties, Punishment, and Consequences for any wilful and corrupt false swearing, affirming, or declaring as if such Witnesses had been examined under the Authority of a Commission issued forth of the same Court and under the Seal thereof.

Examination of Witnesses.

XLII. Before proceeding to examine Witnesses, the Examiner so appointed is to take and subscribe, before some Person duly authorized to take Affidavits in or for the said Court, the following Oath, which shall be annexed to and returned with the Depositions taken by such Examiner; that is to say,

Oath of Examiner.

'I A. B. do swear that I will, according to the best of my Skill 'and Knowledge, truly and faithfully perform the Duty of an 'Examiner to examine Witnesses pursuant to the Powers vested in 'me by the annexed Order of Appointment, and that I will truly, 'faithfully, and without Partiality to any or either of the Parties in 'this Cause, take and write down the Examinations and Depositions 'of all and every Witness and Witnesses who shall be produced 'before and examined by me; and further, that I will fairly and 'truly enter and set down in Writing in the Dominical of such 'Examination the Hours of the Day on each Day that I shall be 'employed as such Examiner at which I shall respectively commence 'and conclude the Examination of the Witnesses under such Order, 'as also the real and true Cause or Causes of my not commencing 'such Examination at or before Eleven of the Clock in the Forenoon 'if such should be the Case; as also of my not continuing such 'Examination until Four o'Clock in the Afternoon if such should be 'the Case; as also by whose Delay or Default, so far as I can judge, 'such Examination was not commenced and continued (as the Case 'may be) from Eleven o'Clock in the Forenoon till Four o'Clock in 'the Afternoon.

'So help me GOD.'

Depositions taken by Special Examiner, how to be returned.

XLIII. When the Examination shall be closed, the Depositions shall be made up by the Examiner and forwarded with the said Affidavit by Post or by Hand, under the Seal of the said Examiner, to the Office of the Examiner of the same Court, where they are thenceforward to remain of Record, and all Parties requiring them shall be entitled to Copies thereof upon Payment of the legal Fees for the same.

Examination of Witnesses in England and Scotland, how to be conducted.

XLIV. When an Examination of Witnesses is to take Place in England or in Scotland, such Examination shall take Place and be conducted in the Manner pointed out in the Thirty-Eighth and Fortieth Sections of this Act by a Master Extraordinary as at present, and the Depositions of the Witnesses shall be returned by Post or by Hand according to the present Course of Practice.

Affidavits and Pleadings in Chancery, how to be taken in Foreign Parts.

15 & 16 Vict. c. 86. s. 22.

XLV. All Pleas, Answers, Disclaimers, Examinations, Affidavits, Declarations, Affirmations, and Attestations of Honour in Causes or Matters depending in the High Court of Chancery in Ireland, and also Acknowledgments required for the Purpose of enrolling any Deed in the said Court, shall and may be sworn and taken in any Colony, Island, Plantation, or Place under the Dominion of Her Majesty in Foreign Parts, before any Judge, Court, Notary Public, or Person lawfully authorized to administer Oaths in such Colony, Island, Plantation, or Place, or before any of Her Majesty's Consuls or Vice-Consuls in any Foreign Parts out of Her Majesty's Dominions, and the Judges and Officers of the said Court of Chancery shall take judicial Notice of the Seal or Signature, as the Case may be, of any such Court, Judge, Notary Public, Person, Consul, or Vice Consul, attached, appended, or subscribed to any such Pleas, Answers, Disclaimers, Examinations, Affidavits, Affirmations, Attestations of Honour, Declarations, Acknowledgments, or other Documents to be used in the said Court.

Penalty for falsely swearing, &c.

15 & 16 Vict. c. 86. s. 23.

XLVI. All Persons swearing, declaring, affirming, or attesting before any Person authorized by this Act to administer Oaths and take Declarations, Affirmations, or Attestations of Honour, shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing, declaring, affirming, or attesting contained therein as if the Matter sworn, declared affirmed, or attested had been sworn, declared, affirmed, or attested before any Court or Persons now by Law authorized to administer Oaths, and take Declarations, Affirmations, or Attestations upon Honour.

Penalty for forging Signature or Seal of Judge, &c. empowered to administer Oaths under this Act. 15 & 16 Vict. c. 86. s. 24.

XLVII. If any Person shall forge the Signature or the Official Seal of any such Judge, Notary Public, or other Person lawfully authorized to administer Oaths under this Act, or shall tender in Evidence any Plea, Answer, Disclaimer, Examination, Affidavit, or other judicial or official Document, with a false or counterfeit Signature or Seal of any such Judge, Court, Notary Public, or other Person authorized as aforesaid attached or appended thereto, knowing the same Signature or Seal to be false or counterfeit, every such Person shall be guilty of Felony, and shall be liable to the same Punishment as any Offender under an Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled "An Act "to facilitate the Admission in Evidence of certain official and other "Documents."

Subpœna ad testificandum and Subpœna duces tecum abolished.

XLVIII. The Practice of the said Court of issuing Subpœnas ad testificandum and Subpœnas duces tecum to compel the Attendance of Witnesses or the Production of Documents shall be and the same is hereby abolished; and in lieu thereof, when the Attendance of any Person is required as a Witness, or to produce Deeds, Records, or other Documents, a Summons signed by the Examiner of the Court when the Examination is to take place in Dublin before such Examiner, or by a Special Examiner appointed as before mentioned when the Examination is to take place out of Dublin, and when requiring the Production of Documents stating the Documents required, shall be duly served on such Person in the Manner in which Subpœnas are now served, and such Summons shall have the Effect of a Subpœna ad testificandum or Subpœna duces tecum; and all Persons who shall be duly served, and shall not attend pursuant to such Summons, shall be subject to the same Penalties, Punishment, and Consequences as if they had been served with a Subpœna ad testificandum or a Subpœna duces tecum.

Summons to compel the Attendance of Witness or Party to be signed by the Judge's Registrar.

XLIX. The Summons to compel the Attendance of any Party or Witness to be examined orally before the Court or any Judge thereof at any Hearing shall be signed by the Registrar of the Court if the Attendance is to be before the Lord Chancellor, and if the Attendance is to be before any of the other Judges of the said Court the Summons shall be signed by the Registrar of such Judge, and shall have the same Force and Effect, and a Non-compliance therewith shall be punishable in like Manner, as in the next preceding Section is mentioned.

When vivâ voce Examination required, the

L. That whenever a vivâ voce Examination shall be required, the Petitioner shall be at Liberty, after the Expiration of *One Fortnight* from the Cause being put at issue as aforesaid, and the Respondent

Time within which Notice to be served.

shall be at liberty, after the Expiration of *Three Weeks* from such Cause being so put at issue, to serve Notice of Examination of Witnesses before the Examiner, naming some Day for the Commencement of same not earlier than *One Fortnight* or later than *Three Weeks* from the Service of such Notice; provided, however, that the Respondent shall not be at liberty to serve such Notice if the Petitioner shall have previously served a like Notice; and the Examiner shall commence such Examination on the Day so named, if required so to do, or so soon thereafter as the general State of Business before him may admit, and having so commenced such Examination, proceed with the same without Intermission, during the usual Office Hours, until the Examination of all the Witnesses for Petitioner and Respondent be completed, and shall grant a Certificate that such Examination has been completed or that no Witnesses had been tendered for Examination, when so required by any of the Parties to the said Cause; provided nevertheless, that the Court may make such special Order for having such Evidence, or any Part thereof, taken vivâ voce or otherwise as to the Time or Mode of taking such Examination or for re-opening such Examination.

Depositions to be taken down in Writing, and read over to the Witness, who shall sign the same in Presence of the Parties; but if he refuse to sign, Examiner may, and state any special Matter he may think fit.
15 & 16 Vict. c. 86. s. 32.

LI. The Depositions taken upon any such oral Examination as aforesaid shall be taken down in Writing by the Examiner, not ordinarily by Question and Answer, but in the Form of a Narrative, and when completed shall be read over to the Witness and signed by him in the Presence of the Parties or such of them as may think fit to attend: Provided always, that in case the Witness shall refuse to sign the said Depositions, then the Examiner shall sign the same, and such Examiner may upon all Examinations state any special Matter to the Court as he shall think fit; provided also, that it shall be in the Discretion of the Examiner to put down any particular Question or Answer, if there should appear any special Reason for doing so; and any Question or Questions which may be objected to shall be noticed or referred to by the Examiner in or upon the Depositions, and he shall state his Opinion thereon to the Counsel, Solicitors, or Parties, and shall refer to such Statement on the Face of the Depositions, but he shall not have Power to decide on the Materiality or Relevancy of any Question or Questions; and the Court shall have Power to deal with the Costs of immaterial or irrelevant Depositions as may be just.

If parties refuse to be sworn or to answer any lawful Questions, the same Course

LII. If any Person produced before any such Examiner as a Witness shall refuse to be sworn or to answer any lawful Question put to him by the Examiner or by either of the Parties, or by his or their Counsel, Solicitor, or Agent, the same Course shall be adopted with respect to such Witness as is now pursued in the Case of a Witness produced for Examination before an Examiner of the said Court upon written Interrogatories, and refusing to be sworn or to answer some lawful Question: Provided always, that if any Witness shall demur or object to any Question or Questions which may be put to him, the Question or Questions so put, and the Demurrer or Objection of the Witness thereto, shall be taken down by the Examiner to be there filed, and the Validity of such Demurrer or Objection shall be decided by the Court; and the Costs of and occasioned by such Demurrer or Objection shall be in the Discretion of the Court.

to be pursued as is now adopted.

Proviso as to Witness demurring to Questions.

15 & 16 Vict. c. 86. s. 33.

LIII. The Evidence on both Sides in any Suit in the said Court, whether taken orally (and including the Cross-examination and Re-examination of any Witness or Witnesses) or taken upon Affidavit, shall be closed within Nine Weeks after Issue joined therein, but with Power to the Court to enlarge such Period as it may see fit; and after the Time fixed for closing the Evidence no further Evidence, whether oral or by Affidavit, shall be receivable, without special Leave of the Court previously obtained for that Purpose: Provided always, that any Witness who has made an Affidavit filed by any Party to a Cause shall be subject to oral Cross-examination within *One Month* after such Period of *Nine Weeks*, by or before an Examiner, in the same Manner as if the Evidence given by him in his Affidavit had been given by him orally before the Examiner, and after such Cross-examination may be re-examined orally by or on the Part of the Party by whom such Affidavit was filed; but such Re-examination shall immediately follow such Cross-examination, and shall not be delayed to a future Period; and such Witness shall be bound to attend before such Examiner to be so cross-examined and re-examined upon receiving due and proper Notice in the Manner herein-before mentioned, and Payment of his reasonable Expenses, in like Manner as if he had been duly served with a Writ of Subpœna ad testificandum before such Examiner; and the Expenses attending such Cross-examination and Re-examination shall be paid by the Parties respectively, in like Manner as if the Witness so to be cross-examined were the Witness of the Party cross-examining, and shall be deemed Costs in the Cause of such Parties respectively, unless the Court shall think fit otherwise to direct.

Evidence, oral or by Affidavit, on both Sides, to be closed within a certain Time.

15 & 16 Vict. c. 86. s. .

General Order, English Court of Chancery, 7th Aug. 1852.

Witnesses by Affidavit to be subject to oral Cross-examination, and afterwards to Re-examination.

Witnesses bound to attend.

As to Expenses attending Cross-examination, &c.

LIV. Any Party desiring to cross-examine a Witness who has made an Affidavit in any Cause intended to be used at the Hearing thereof shall give *Forty-eight* Hours Notice to the Party on whose Behalf such Affidavit was filed, or to the Party intending to use the same, of the Time and Place of such intended Cross-examination, in

Notice of Cross-examining Witness who has made an Affidavit.

order that such Party may, if he shall think fit, be present at such Cross-examination.

Court may require the Production and oral Examination before itself of any Witness, &c., and determine Payment of the Costs.
15 & 16 Vict. c. 86. s. 39.

LV. Upon the Hearing of any Cause depending in the said Court, whether by Petition or Bill, the Court, if it shall see fit so to do, may require the Production and oral Examination before itself of any Witness or Party in the Cause, and may direct the Costs of and attending the Production and Examination of such Witness or Party to be paid by such of the Parties to the Suit or in such Manner as it may think fit; and the Examination in such Case shall be conducted and the Evidence recorded in like Manner as Examinations are conducted and Evidence as at present recorded in the Bankrupt Court.

Any Party in a Cause may by Notice require Attendance of any Witness before an Examiner.
15 & 16 Vict. c. 86. s. 40.

LVI. Any Party in any Cause or Matter depending in the said Court may, by Notice to be issued by an Examiner of the said Court, or before an Examiner specially appointed for the Purpose, require the Attendance of any Witness before such Examiner, and examine such Witness orally, for the Purpose of using his Evidence upon any Motion, Petition, or other Proceeding before the Court, in like Manner as such Witness would be bound to attend and be examined with a view to the Hearing of a Cause; and any Party having made an Affidavit to be used or which shall be used on any Motion, Petition, or other Proceeding before the Court, shall be bound on being served with such Notice, to attend before an Examiner for the Purpose of being cross-examined: Provided always, that the Court shall always have a discretionary Power of acting upon such Evidence as may be before it at the Time, and of making such interim Orders, or otherwise, as may appear necessary to meet the Justice of the Case.

Mode of Examination of Witnesses on Interrogatories.

LVII. The Examination of Witnesses upon Interrogatories shall be regulated by the present Practice of the Court in relation thereto, save so far as the same is varied by this Act.

Petitioner or Respondent may proceed with Examination on Interrogatories.

LVIII. The Petitioner or Respondent may, at any Time after Leave of the Court or of the Judge to whose Office the Case has been attached in manner aforesaid obtained for Examination on Interrogatories, and before the passing of Publication, proceed with such Examination.

When Expenses of examining Witnesses vivâ voce shall be disallowed.

LIX. The Court, or any of the Judges as aforesaid, shall be at liberty to disallow the Expenses of any Witness or Witnesses examined vivâ voce as to Matters which could have been proved with less Expense and equal Advantage by Affidavit or Examination upon Interrogatories, save where such Examination shall have been required by an opposing Party.

LX. Pub-

Publication to pass in Nine Weeks after Service of Notice in Section 34.

LX. Publication shall pass without Rule or Order at the Expiration of *Nine* Weeks after the Service of the Notice in the Thirty-fourth Section mentioned, unless such Time shall be enlarged by Order of the Judge to whose Court such Cause or Matter is attached.

No Amendment of Petition except by a special Order.

LXI. A Petition shall not be amended except by a special Order and in the Manner which may be thereby directed, and if Time is to be allowed to answer such Amendment the Order shall specify the Time so to be allowed; and no supplemental Petition shall be filed without the Leave of the Court.

No supplemental Petition to be filed without Leave of the Court.

LXII. In every Case where the Jurisdiction of the Court in any Matter shall attach upon Petition, it shall not be necessary to present any further Petition after the First, which confers such Jurisdiction, but all Applications in such Matters shall be made upon Notice without Petition.

No Second Petition necessary in any Matter.

XLIII. The Solicitor for the Petitioner, when he shall set down a Cause Petition for Hearing under the Twenty-eighth Section, shall lodge with the Register of the Judge before whom it is to be heard the Rolls Certificate, and a Docket containing the Names of the Parties to the Cause Petition, and of the Solicitor for any Respondent who shall have entered an Appearance, and the Docket shall state that the Petition is set down under the Twenty-eighth Section, as the Case may be; and shall also state the Date of the Service of the Notice of the Petition upon each Respondent, and that the Time for filing the Affidavit by way of Answer, or for answering the Interrogatories (if any) by each Respondent, has expired; and if the Petition is to be set down under the Thirty-third Section the Docket shall state the Date of the Service of the Notice of the Petition upon each Respondent who shall not have filed an Affidavit by way of Answer, and that the Time for filing the Affidavit by way of Answer or for answering the Interrogatories (if any) by each such Respondent, has expired; and the Registrar of such Judges, or one of the Clerks appointed for that Purpose as aforesaid, shall at all Times set down such Cause Petition without any Order, and according to the Priority that each Docket is lodged with him, and such Petition shall be heard accordingly, unless the Court or Judge shall otherwise direct; and Notice that the Cause has been set down for Hearing shall be served *Four* Days before the Hearing of the said Petition on any Respondent who shall have filed an Affidavit by way of Answer or shall have entered a special Appearance.

Setting down Cause Petition under the 28th Section.

Service of Notice of the setting down the Cause for Hearing.

LXIV. In Cases not falling within the Twenty-eighth or Thirty-third Sections the Solicitor for the Petitioner shall serve the Solicitor for any Respondent who shall have filed an Affidavit by way of Answer or entered an Appearance, with Notice to the Effect and at the Time herein-after mentioned; and such Notice shall state that the Petition has been set down to be heard, and such Notice shall be served *Ten* Days at the least before the said Petition shall be heard.

Mode of setting down Cause Petition on Proofs.

LXV. The Solicitor for the Petitioner, when he shall set down a Cause Petition for hearing in Cases not within the Twenty-eighth or Thirty-third Sections, shall lodge with the Registrar the Rolls Certificate, and an Office Copy of the Memorandum entered under the Thirty-seventh Section, and a Docket containing the Name of the Cause Petition, and the Solicitor for any Respondent who shall have filed an Affidavit by way of Answer or entered an Appearance; and the Docket shall state the Date of the Service of Notice of the Petition upon any Respondent who shall not have filed such Affidavit or entered such Appearance, and that the Time for filing the Affidavit by way of Answer or for answering the Interrogatories, if any, by each such Respondent, has expired; and the Docket shall also state the Date of the Service of the Notice in the Thirty-fourth Section mentioned, and the Certificate of the Examiner; and the Registrar of the Court or Judge thereupon shall at all Times set down such Cause Petition without any Order and according to the Priority that each Docket is lodged with him; and any Cause Petition, except Cause Petitions set down under the Twenty-eighth and Thirty-third Sections, which shall be set down after the Second Day of Term, or where the Notice under the
Section shall not have been served *Ten* Days before the Second Day of Term, shall not be entitled to be heard in that Term, unless by Order of the Court, but such Cause Petitions shall stand in the List to be heard according to their Priority in the next Term.

Respondent not entitled to Costs of appearing at Hearing, although served with Notice, unless there was reasonable Cause for his so appearing.

LXVI. A Respondent shall not be entitled to the Costs of appearing at the Hearing of a Cause Petition on the Ground that Notice of such Petition or Notice under the Twenty-fourth Section may have been served on such Respondent, unless the Court shall consider that there was reasonable Cause for the said Respondent so appearing.

Practice as to Exceptions for Insufficiency of Answer to Interrogatories.

LXVII. The Practice as to Exceptions for Insufficiency of the Affidavit filed by the Respondent by way of Answer to Interrogatories, whether filed by Petitioner or Respondent, in a Matter or Cause, or Answers to Bill or Interrogatories by Plaintiff, Defendant, or other Person or Party, shall be regulated by the Seventy-fourth, Seventy-fifth, Seventy-sixth, Seventy-seventh, Seventy-eighth, and Seventy-ninth of the General Orders of the Twenty-seventh Day of March One thousand eight hundred and forty-three, save that the

Period of Six Week in the Seventy-fifth of the said Orders shall be reduced to *Twenty-one* Days, and that instead of a Report, as required by the said Orders, the Judge before whom the same shall be heard shall make an Order.

Exceptions not to state Interrogatories at length.

LXVIII. Provided always, That Exceptions taken to such Answers or Affidavits as in the last Section mentioned shall not set out the Interrogatories at length which it is alleged are insufficiently answered, but shall only refer to the Numbers annexed to the Interrogatories; and provided also, that the Party or Person answering shall not be at liberty to decline answering any Interrogatories merely because the same relate to or interrogate as to Matters not expressly stated in the Bill or Answer, or in the Petition or the Affidavit filed by way of Answer thereto, as the Case may be; but the Court, at the Hearing of the Petition, may reject the Answer to any Interrogatories which relate to Matter not relevant or in issue, and may make such Order as to the Costs incurred by such irrelevant Interrogatories as to the Court shall seem just.

References for Impertinence or Prolixity abolished.

LXIX. All References for Prolixity or Impertinence, except where the Matter shall be scandalous, shall be abolished: but nevertheless the Court, on the Hearing of the Cause or Matter in which such prolix or impertinent Matter may appear to have been put on the Files of the Court, shall have regard to such Prolixity or Impertinence in disposing of the Question of Costs.

Cause Petition not heard within a Year to stand dismissed without Costs, without any Order of the Court, unless Time extended by Order.

LXX. If at the Expiration of *One Year* after the filing of a Cause Petition the said Petition shall not have been heard by the Court, the same and all the Proceedings thereon shall at the Expiration of such Year, and without any Order of the Court for that Purpose, stand dismissed without Costs for Want of Prosecution, unless upon Application to the Court by Motion before such Period the Court shall think fit to allow the Petitioner further Time to prosecute his said Petition: Provided always, that the Court shall have Authority, on special Motion, in Cases dismissed under this Order, to restore such Cause Petition, and the several Proceedings had thereon, on such Terms as the Court shall consider just.

Respondent at liberty to move to dismiss Petition for Want of Prosecution, after the Expiration of One Month from the Time when the Peti-

LXXI. If the Petitioner shall not proceed with the said Cause Petition, the Respondent shall be at liberty, after the Expiration of *One Month* after the Time when the Petitioner might have served the Notice in the Thirty-fourth Section mentioned, or might have set down the Cause to be heard under the Provisions contained in this Act, to move, upon Notice, that the said Petition be dismissed with Costs for Want of Prosecution; and the Court shall thereupon dismiss such Petition, unless the Petitioner shall appear upon such Notice, and satisfy tioner might set down the Cause.

satisfy the Court that due Diligence has been used by him, or unless the Court shall think fit to allow the Petitioner to serve such Notice as in the Thirty-fourth Section mentioned, or to set down the said Petition for Hearing, or to take such other Proceedings as may be necessary for the Hearing of said Petition without further Delay.

Respondent may set down Cause to be heard if Petitioner does not, and every Decree in such Case shall operate as a Bar to any Suit for the same Matter.

LXXII. In every Case where Proofs have been made, any Respondent may, after the Expiration of *One Month* from the Period when the Petitioner, according to the Practice of the Court, might have set down such Cause for Hearing, if he shall not elect to dismiss the Petition for Want of Prosecution under the Section of this Act, set the same down to be heard, and the same shall be heard accordingly, and every Decree pronounced thereon shall operate as a Bar to any Suit for the same Matter, in like Manner and so far as such Decree would have been if such Cause had been set down for Hearing by the Petitioner.

Court on special Motion to be at liberty to order a Person not a Party to a Petition to bring in Deeds, &c.

LXXIII. The Court may, upon Special Motion, order and direct any Person, not being a Party to a Petition under the said Act, to bring into Court for the Purposes of such Matter or Cause any Deeds, Documents, or Papers in his Custody, Power, or Possession, subject to his Lien thereon, if any, or to allow Inspection and Copies or Extracts to be taken of the same, in the like Manner in which if such Person had been named a Respondent in such Matter he might have been ordered to bring the same into Court or to allow Inspection as aforesaid; and if the Court shall be of opinion that the Affidavit made by such Party shall be evasive or shall omit to answer any material Fact stated in the Affidavit on which the Motion shall be grounded, the Court may reserve the Costs of such Motion and may permit Interrogatories to be filed for the Examination of such Party; and in case of Exceptions being taken to the Affidavit filed in answer to such Interrogatories, the Practice as to such Exceptions shall be the same as is provided by the Sections: Provided always, that nothing in this Order contained or the Pendency of the Proceedings thereunder, shall prevent or delay the Petitioner proceeding with the Cause Petition under any other Order of the Court.

Where necessary, Parties not in the first instance served with Notice of the Petition, the Court may at any Stage of the Proceedings direct Service of Notice on such Party.

LXXIV. In any Case where a Petition shall be presented under the said Act, the Court may from Time to Time, whether any Order, interlocutory or final, shall have been made upon the said Petition or any Proceedings taken thereon, direct such further Service of Notice of the said Petition as the Court may think fit, such Notice to be in the Form and to the Effect in that Behalf set forth in Schedule F. hereunto annexed, with such Variations as Circumstances may require; but any Inaccuracy in such Notice shall not invalidate the Proceedings or render the same void, unless the Court shall otherwise direct; and Service of such Notice being made, the Party so served shall from the Time of such Service become a Party to the said Proceedings as effectually as if he had been named a Respondent in the Petition; and the Court may make an Order that such Party shall be bound by the Proceedings already had, or such other Order as to the Court may seem just.

A Copy of the Order to bind Parties by the Proceedings to be lodged in Rolls Office.

LXXV. Whenever an Order shall be made for Liberty to serve a Notice whereby it is sought to bind a Person by the Proceedings after the filing of a Petition and without Amendment thereof, the Solicitor shall lodge a certified Copy of such Order with the Deputy Keeper of the Rolls, and until such Copy be so lodged the said Order shall not have any Operation to bind such Person; and the said Officer shall enter the Name of such Person in the Pleading Book of the said Office, so as to enable him to give a Certificate of the Names of the Parties to the Suit or bound thereby.

Every Person filing a Claim to be deemed a Party to the Petition, but no Abatement to be caused by Death, &c.

LXXVI. Every Person who shall file a Claim under any Order to be made under the said recited Act or this Act shall be deemed to be a Party to such Petition as fully and effectually as if he had been made a Respondent thereto and served with Notice of such Petition; but the Death, Marriage, Bankruptcy or Insolvency of such Person or any Change of Interest shall not cause such Petition to become either abated or defective.

Mode of entitling Notices of Motion in any Cause Petition.

LXXVII. Every Notice of Motion made in the Matter of any Petition presented under the said Act shall in the Title thereof, over the Name of the Parties, Petitioner and Respondent, be further entitled "Cause Petition," and every Order made on such Notice shall be entitled in like Manner.

Cause Petitions, Affidavits by way of Answer, Interrogatories, and Answers to Interrogatories to be filed in Rolls Office; all other Affidavits to be filed in Office of Clerk of Affidavits.

LXXVIII. All Cause Petitions and all Affidavits of the Respondent filed by way of Answer, and Interrogatories and Answers to Interrogatories in the Matter of any such Petition, shall be filed in the Office of the Deputy Keeper of the Rolls in Ireland, as directed by the Tenth Section of the said recited Act; and all other Affidavits shall be filed in the Office of the Clerk of Affidavits according to the present Course of the Court.

Side-bar Rules.

LXXIX. The several Side-bar Rules set forth in the Appendix to the General Orders of the Twenty-seventh of March One thousand eight hundred and forty-three shall and may be adopted in proceeding under the said recited Act, so far as the same are applicable to the Proceedings thereunder and consistent with this Act, and the Registrar of the Court of Chancery shall be at liberty to render such Side-bar

Orders applicable to Proceedings under the said recited Act, by inserting the Word "Petition" instead of "Bill," "Petitioner" instead of "Plaintiff," "Respondent" instead of "Defendant" in such Side-bar Orders, and to make such other clerical Amendments as may be necessary in entering such Side-bar Orders; and the Registrar shall be at liberty to apply to the Court in any Case of Difficulty which may arise.

Court shall have Power to enlarge Time, and make Amendments in any Proceeding.

LXXX. The Court may, in its Discretion, allow any Proceeding to be taken or Act done, although the Period limited by this Act or any General Order of the Court for taking such Proceeding or doing such Act may have elapsed, or the Court may enlarge such Time, and the Court may supply an Omission in any Proceeding; and whenever any Proceeding fails to conform in any respect to this Act or to any General Orders or to the said recited Act, the Court shall have Power to permit an Amendment of the Proceeding.

References and Reports no longer to be made.

LXXXI. From and after the *Commencement of this Act* no Reference shall be made, except by the Lord Chancellor, in any Cause, Matter, or Proceeding which are or shall be hereafter depending in the Court of Chancery as a Court of Equity, or which have been or shall be submitted to the Jurisdiction of the said Court in relation to Infants or Lunatics, or by the Authority of any Act (except the Acts relating to Bankruptcy) where from the Nature of the Case he shall deem it expedient to make the same, and no Report shall be made in any such Cause, Matter, or Proceeding by the Master of the Rolls, or any of the Vice Chancellors in any Cause or Matter, whether the same shall have been originally heard by any of such Judges, or by the Lord Chancellor himself; but the said Master of the Rolls and the several Vice Chancellors, as well in respect of Causes and Matters now pending, as those which shall hereafter be heard by any of them, or referred to them by the Lord Chancellor, shall make all necessary Decrees and Orders, such as have been heretofore made by the Lord Chancellor, Master of the Rolls, or Masters of the Court, and shall conduct all Inquiries incident to such Causes and Matters as have been heretofore conducted by the said Masters, and shall make such Decrees or Orders on the Result of such Inquiries, without any Report, as the Lord Chancellor or the Master of the Rolls could have heretofore made on Reports submitted to them.

Proceedings at Hearing of Cause.

LXXXII. The Petitioners and Respondents in any Cause or Matter to be heard before the Master of the Rolls or any of the Vice Chancellors shall, upon the Hearing thereof, be prepared to proceed forthwith to enter upon any Inquiry which may be necessary to enable the Court to make a final Adjudication of such Cause without Delay, Dealy, and the Judge before whom such Cause or Matter shall be heard shall proceed to make such final Adjudication at such original Hearing, unless he shall consider that the Case ought to stand for the Parties to make Proofs, or for publishing Advertisements, or for the First Clerk to examine the Detail of any Account incident to such Cause or Matter in manner herein-after provided, or unless such Judge shall consider that such Cause or Matter ought for any other just or reasonable Cause to stand over; provided, that notwithstanding such Cause or Matter shall be so directed to stand over, the said Judge shall have full Power, by interlocutory Order or Decree, to decide any Question or Questions which may have arisen between the Parties, and give such incidental or supplemental Directions as he may deem right and expedient.

Further Hearings.

LXXXIII. The Judge before whom such Cause or Matter shall be pending as aforesaid, if he shall direct the same to stand over for any Reason save for taking an Account, he shall name a Day upon which such Cause or Matter shall be ready for further Hearing, in the Order as of which Day the same shall accordingly be placed in a List of Cases for further Hearings, to be kept for that Purpose, and the same shall accordingly be called on in such Order without any Summons or Notice to any of the Parties for that Purpose, and the Judge before whom such Cause or Matter may be so pending shall be at liberty, in the Absence of the Parties, or any of them, to make such Order as he may think right and necessary for finally disposing of the same or any Part of the same, or make such other Order as may to him seem just and the Nature of the Cause or Matter may require: Provided always, that nothing herein contained shall preclude such Judge from then, or previously on Motion, making such Order for varying the Day so named, and directing such Cause or Matter to take its Place in the said List of further Hearings accordingly.

Making Proofs and further Proofs subsequent to Hearing.

The Court to direct the Mode of Proof and limit the Time.

LXXXIV. Whenever such Judge shall, at the Hearing of any such Cause or Matter, deem it necessary and proper to direct or allow the Parties, or any of them, to make any Proofs or further Proofs, he shall do so accordingly, and declare the Mode in which such Proofs shall be made, whether in part or wholly by Affidavit or Examination vivâ voce, or on Interrogatories, and also the Time within which such Affidavits shall be made, or such Examination be closed, or Publication passed, and such Examination, whether the same be on Interrogatories or vivâ voce, shall be conducted by such Examiners as herein-before referred to, and shall be conducted in the Manner herein-before directed in relation to Examinations in chief: Provided nevertheless, that such Judge, if he shall see fit, may require that any Witness shall be examined vivâ voce before himself, in which Case the Examination shall be conducted and the Evidence of such Witness recorded in like Manner as Examinations are conducted and Evidence is at present recorded in the Bankrupt Court.

Accounts taken before Chief Clerk.

LXXXV. If upon the Hearing of any Cause or Matter the Judge before whom such may be heard shall consider it necessary to have an Account taken, he shall be at liberty to direct the same to be taken before his Chief Clerk, under his own Directions and with his Advice, which Account the said Chief Clerk shall proceed to take accordingly, but he shall not be at liberty to make any formal Report thereon; and the said Chief Clerk, in taking such Account, shall be at liberty to reserve Questions as to particular Items or Classes of Items which may involve Points of Law, or be disputed in Fact, for the Decision of such Judge, or may in the course of such Account take the Opinion or Direction of the said Judge in relation to the same; and the said Chief Clerk shall be at liberty, if he shall see fit, to require Affidavits to be made as to Matters of Fact connected with such Account; but nevertheless that it shall be lawful for such Judge, on summary Application on Notice, to grant Liberty to any Party to have such Matter proved on Examination of Witnesses, and when such Account shall be so taken the said Chief Clerk shall place the Cause or Matter in which such Account shall have been so directed in such List of Causes for further Hearing, as of the Day when such Account shall be so concluded.

Charges, &c. abolished.

General Order, Court of Chancery, England, 16th Oct. 1852.

LXXXVI. The Course of Proceeding in the Offices of the several Judges of the Court shall be the same as the Course of Proceeding on Motion; no Statements of Facts, Charges, or Discharges are to be brought in, but when directed Copies, Abstracts, or Extracts of or from Accounts, Deeds, or other Documents and Pedigrees, and concise Statements are to be supplied for the Use of the Judge, and when so directed, Copies are to be handed over to the other Parties; but no Copies to be made of Deeds or Documents when the Originals can be brought in without special Direction.

Proceeding by Summons abolished.

LXXXVII. In all Proceedings in the several Courts of the Master of the Rolls and the Vice Chancellors, or before their Chief Clerks, the Practice of bringing Matters forward by Summons shall be discontinued, and Notices shall be substituted in place thereof as upon Motions.

Accounting Party to lodge Account without any

LXXXVIII. Whenever the Relief sought by any Petition filed under this Act, or the said recited Act of the Fourteenth and Fifteenth Victoria, Chapter Eighty-nine, shall consist either in whole or in part of an Account from any Partner, Agent, Executor, Administrator, Trustee, Charge being filed by the charging Party.

Trustee, or other similar accounting Party, and also in every Matter in which the Judge shall deem it necessary or proper that an Account shall be taken, the Judge before whom such Case shall be pending, on directing such Account, may order that the accounting Party shall by a Day to be specified in any Order for that Purpose, bring in and lodge in the Office of such Judge on Oath, without any previous Charge being filed, such an Account, the Items on each Side to be numbered consecutively, and which Account shall be subsequently vouched before the Chief Clerk of such Judge; and in case the Party so directed to bring in such Account shall not do so within the Time specified in such Order, or having lodged such Account shall not proceed with due Diligence and vouch and pass it within such Time as may be limited for that Purpose, or such further Time as may under special Circumstances be allowed, the Party so making default shall be liable to the Penalty of an Attachment for Contempt for not complying with the Rules or Orders of the Judge in that respect, and shall be also subject to all other Penalties and Powers now exercised by the High Court of Chancery in Ireland for the Purpose of enforcing Obedience to and Performance of Decrees and Orders of the said Court; but nothing in this Act contained shall prevent such Judge, if he shall deem it just and expedient so to do, to direct a Charge or Discharge to be filed as heretofore.

Parties at liberty to object to Account.

LXXXIX. Any Party interested in any such Account as in the next foregoing Section mentioned shall be at liberty to object thereto within such Time as the Judge shall limit for that Purpose, and such Objections shall be drawn in a succinct Form, and when they relate to any Item of such Account shall only refer to it by the Number of the Item objected to.

Postings for Creditors, Sales, &c., to be signed by Chief Clerk.

XC. Postings for Creditors and for Sales and Advertisements for next of Kin, Legatees, and Incumbrancers, and of every other Description, shall be prepared by the Solicitors and submitted to the Chief Clerk, who is to examine and sign the same, and to direct how and how often they are to be published, and such Postings for Creditors, Legatees, Incumbrancers, and next of Kin shall fix a Time for such to come in and prove their Claims, and such Chief Clerk shall by an Inspection of the public Papers in which such Advertisements shall have been so directed to be published, or by such other Means as may appear reasonable and sufficient for the Purpose, ascertain whether the Directions for such Publication have been complied with.

Form of Claims by Creditors.

XCI. All Creditors and Third Persons coming in to claim any Debt, Charge, or Incumbrance, under any Decree or Order or in pursuance of any Advertisement to that Effect, shall file a Claim in the Tabular Form prescribed in Schedule F. hereunto annexed, or as near thereto as the Nature of the Case may admit; if the Sum claimed be a Balance on any running or unsettled Account, or involves the Question of Rests in the Calculation of Interest, the Party filing it is to be at liberty to annex to such Claim by way of Schedule the Particulars of the Account relied on, and every such Claim shall be verified by the Affidavit of the Person on whose Behalf it may be filed, or in the Manner prescribed in the several Cases herein-before provided in relation to Verification of Petitions by Sections Eleven, Twelve, Thirteen, and Fourteen of this Act, or otherwise, as the Judge before whom the Case may be pending or the Court may direct.

Claimants coming in under an Advertisement to file their Claims and give Notice within the Time limited by the Advertisement.

XCII. All Claimants coming in pursuant to an Advertisement shall file their Claims and give Notice thereof to the Solicitors in the Cause or Matter on or before the Day limited by such Advertisement for that Purpose, and no Claim shall be received after such Day unless with the Leave and on such Terms as may be prescribed by the Judge, and there shall be no separate Hearing of Claims before such appointed Day unless by Direction of the Judge.

Parties interested to be at liberty to lodge Objections to any Claim, the Costs thereof to be paid as the Judge shall direct.

XCIII. All Parties interested shall be at liberty to lodge Objections to any Claim brought in under any Advertisement, such Objections to be lodged before the Case shall be entered for proceeding before the Chief Clerk of the Judge as herein-after mentioned, verified by the Affidavit of the Person on whose Behalf they shall be lodged, unless such Person be either absent abroad, or a Minor, or be incapacitated by mental or bodily Infirmity, in any of which Cases such Objections may be verified in the Manner herein-before provided with respect to the Verification of Cause Petitions; the Costs of such Objections, and all Costs occasioned thereby, to be paid by or to such Person as the Judge on disposing thereof shall order.

Claims to be investigated primarily by the Chief Clerk of the Judge, who shall pass such as are unobjected to.

XCIV. After the Expiration of the Time limited by any Advertisement for lodging Claims, in case any have been brought in, the Solicitor for the Petitioner or the Person having the Carriage of the Proceedings shall be entitled to *One Month* after the Time mentioned in such Advertisement to investigate the Claims filed, and when necessary file Objections thereto, and after the Expiration of such Month it shall be the Duty of such Solicitor to set down the Case for a primary Examination of all such Claims by the Chief Clerk of the Judge, and to give Notice thereof to all Parties and Claimants, and on the Day so appointed for that Purpose, or so soon after as may be convenient according to the State of Business in his Office, such Chief Clerk shall investigate in the Presence of all such Parties as shall attend, and their Counsel and Solicitors, all such Claims as may be then filed, and shall mark and pass as proved such as shall be unobjected to, provided he shall be of opinion they are proper to be so dealt with, and he shall also pass all Claims objected to where the Objection relates to Matter of Detail or Calculation, making such Alterations in the Amount claimed as the Circumstances require; but if any Question shall arise on the Investigation of such Claims, or any of them, either of Law or of Fact, or otherwise requiring in the Opinion of such Chief Clerk the Decision of the Judge, he shall forthwith, whether required by the Parties or not, enter the Case in the Judges List of Causes for Hearing, and upon such Case so coming on the Judge shall when practicable decide all the Questions in Controversy either between the Parties or Claimants, and make such Decree or Order therein as the Circumstances may require; but if any further Proofs appear to be necessary, the Judge shall direct in what Manner such Proofs shall be made, and limit the Parties to a Time for making the same: Provided always, that nothing herein contained shall limit the Power of the Judge when any exceptional Case shall arise to give such further Time or make such Rule therein as the Justice of the Case may require.

The Case to be then set down for Hearing before the Judge as to any Questions in Controversy between the Parties or Creditors.

XCV. If the Solicitor having the Carriage of the Proceedings shall not within *One Month*, to be computed from the Expiration of the Time limited for filing Objections to Claims, as in the next foregoing Section mentioned, set down the Case for Investigation before the Chief Clerk of the Judge as before mentioned, any Respondent who has entered an Appearance or any Person who has filed a Claim shall be at liberty to do so, giving the Notice herein-before provided to the several Parties and Claimants in the Case.

If the Solicitor having the Carriage of the Proceedings does not set down Case, any Respondent or Creditor may do so.

XCVI. In case no Claim shall be lodged pursuant to any such Advertisement as before mentioned, the Solicitor for the Petitioner or Person having the Carriage of the Proceedings shall be at liberty, at any Time after the Expiration of the Time limited by any such Advertisement, to set down the Case for Hearing before the Judge for a final Decree therein, and if he shall not do so within *One Month* from the Time next aforesaid any Respondent who has entered an Appearance shall be at liberty to set down the same for that Purpose; and when any Case shall be set down for Hearing before the Judge by the Petitioner or any other Party in pursuance of the Powers in this Section for that Purpose, a Period of *Ten* Days at the least shall elapse between the Service of Notice of setting down the same and the Day appointed for the Hearing thereof.

In case no Claims lodged, Case may be set down before the Judge for a final Order.

Orders of the Master of the Rolls and Vice Chancellors may be appealed from.

XCVII. All Decrees and Orders of the Master of the Rolls, or any of the Vice Chancellors, including Orders for Payment of Costs, shall be made up by the Registrar of such Judge and transmitted to the Registrar of the Court of Chancery, and may be appealed from to the Court of Chancery Appeals by Motion on Notice, without Objections or Exceptions, and an Appeal shall lie upon such Matters from the said Court of Chancery Appeals to the House of Lords; such Appeals to be within such Time and subject to such Conditions as have been enacted by the said recited Act in relation to such Appeals, save that the Party appealing shall specify in the Notice of Appeal the Matter or Matters in respect of which such Order or Decree is objected to, whether such Objections have been the Reception or Rejection of Evidence, or the Decision of Matters of Law or Fact.

Appointment of Perambulators in Partition Causes.

XCVIII. The Appointment of Perambulators, and Persons to perform all the Duties heretofore discharged by Commissioners in Partition Causes, shall take place before the Judge to whose Court the several Causes or Matters in which such Appointments shall be made shall be attached as aforesaid, and such Appointments shall be made without Commission in such Manner as is herein-before provided with respect to special Examiners, and the Persons so appointed shall thereby be invested with all the Powers conferred by the Commissions heretofore issued for such Purpose.

Preliminaries to Sale.

XCIX. The Chief Clerk of the Judge under whose Authority a Sale is to be made shall direct all proper Postings and Advertisements for Sale, and shall not proceed with any Sale until satisfied that the Directions given have been complied with, and for that Purpose the Solicitor having the Carriage of the Sale shall, on some convenient Day, not less than *One Week* before the Day of Sale, attend at the Office of the Chief Clerk, and by Production of the Papers and other reasonable Means satisfy such Chief Clerk that the Advertisement and Publication of the Posting and Circulation of the Rentals have taken place as directed.

Chief Clerk to hold all Sales under the Court.

C. All Sales under the Court shall be held by the Chief Clerk of the Judge, who shall order the same, or by such other Person as the Judge in the particular Case shall direct for that Purpose, and such Sale shall be held at the Chambers of such Chief Clerk, or at such other Place as the Judge shall appoint; but nothing herein contained shall affect the Power of the Court to have Biddings taken in the Country in accordance with the existing Practice.

Confirmation of Sale.

CI. When a Purchaser shall have been declared, an Order shall be forthwith prepared on the Application of the Purchaser's Solicitor, or any other Party, as of Course, to confirm such Sale or Lodgement of the Purchase Money; and on the entire Purchase Money (which shall be lodged in One Sum) being lodged in Court, the Sale shall stand confirmed without further Order; and if the Purchaser do not lodge his Purchase Money within a reasonable Time, Proceedings by Attachment may be taken to compel him to do so.

Objections to Title may be taken without Order.

CII. Every Purchaser under the Court shall be at liberty, without Rule or Order, to lodge Objections to the Title to the Lands purchased by him, and such Objections shall be forthwith set down for Argument before the Judge in his List of Causes, and the Cost of such Objections shall be in the Discretion of the Judge.

If Purchaser neglect to complete his Purchase, the Title to be deemed as accepted.

CIII. If a Purchaser under the Court, having lodged his Purchase Money, shall not proceed to complete his Purchase, the Solicitor having the Carriage of the Sale shall be at liberty to serve a Notice calling on him to do so; and if Objections to the Title shall not be filed with *One Month* from Service of such Notice, the Title shall be considered as accepted, and the Purchaser shall be thenceforward precluded from objecting thereto.

Purchasers Deed to be executed solely by the Judge.

CIV. That the Conveyance of Lands sold under the Court shall be prepared in Form as between the Parties, but shall be executed solely by the Judge, whose Signature shall have the same Operation to pass to the Purchaser the Estates and Interests in the Lands of the several Parties in the Cause, and shall otherwise bind them, as if the same had been executed by the said several Parties.

Conveyances to be exempt from Stamp Duty.

CV. That all such Conveyances shall be entitled to the like Exemptions as to Stamp Duty as Purchase Deeds under the Court for the Sale of Incumbered Estates in Ireland.

Purchaser not to object to Want of Parties in certain Cases.

CVI. Whenever a Sale of Lands or Premises shall be had under the Court, the Purchaser at such Sale shall not be at liberty to object to the Title on the Ground of Want of Parties to the Suit, if from its Nature such Persons under the foregoing Rules shall not be deemed necessary Parties, and such Persons shall be deemed bound by the said Suit as if they had been Parties thereto, and shall be bound by such Conveyance as if they had been Parties to the same.

Affidavits to be in the First Person. English General Orders, 8th May 1845.

CVII. All Affidavits shall be taken and expressed in the First Person of the Deponent; and any Solicitor, Party, or Person filing an Affidavit not taken and expressed in the First Person of the Deponent shall not be allowed the Costs of preparing and filing such Affidavits in any Taxation of Costs.

Affidavits to be divided into Paragraphs, and numbered.

15 & 16 Vict. c. 86. s. 36.

CVIII. Every Affidavit is to be divided into Paragraphs, and every Paragraph is to be numbered consecutively, and as nearly as may be confined to a distinct Portion of the Subject.

Suit not to be dismissed for Misjoinder of Petitioners, but Court may modify its Decree according to special Circumstances.

15 & 16 Vict. c. 86. s. 49.

CIX. No Suit in the said Court shall be dismissed by reason only of the Misjoinder of Persons as Petitioners therein; but whenever it shall appear to the Court that, notwithstanding the Conflict of Interest in the Co-Petitioners, or the Want of Interest in some of the Petitioners, or the Existence of some Ground of Defence affecting some or One of the Petitioners, the Petitioners, or some or One of them, are or is entitled to Relief, the Court shall have Power to grant such Relief, and to modify its Decree according to the special Circumstances of the Case, and for that Purpose to direct such Amendments, if any, as may be necessary, and at the Hearing before such Amendments are made to treat any One or more of the Petitioners as if he or they was or were a Respondent or Respondents in the Suit, and the remaining or other Petitioner or Petitioners was or were the only Petitioner or Petitioners on the Record; and where there is a Misjoinder of Petitioners, and the Petitioner having an Interest shall have died leaving a Petitioner on the Record without an Interest, the Court may at the Hearing of the Cause order the Cause to stand revived as may appear just, and proceed to a Decision of the Cause, if it shall see fit, and to give such Directions as to Costs or otherwise as may appear just and expedient.

No Suit to be objected to because only declaratory Order sought.

15 & 16 Vict. c. 86. s. 50.

CX. No Suit in the said Court shall be open to Objection on the Ground that a merely declaratory Decree or Order is sought thereby, and it shall be lawful for the Court to make binding Declarations of Right without granting consequential Relief.

Court may decide between some of the Parties without making others interested Parties to the Suit.

15 & 16 Vict. c. 86. s. 51.

CXI. It shall be lawful for the Court to adjudicate on Questions arising between Parties, notwithstanding that they may be some only of the Parties interested in the Property respecting which the Question may have arisen, or that the Property in question is comprised with other Property in the same Settlement, Will, or other Instrument, without making the other Parties interested in the Property respecting which the Question may have arisen, or interested under the same Settlement, Will, or other Instrument, Parties to the Suit, and without requiring the whole Trusts and Purposes of the Settlement, Will, or other Instrument to be executed under the Direction of the Court, and without taking the Accounts of the Trustees or other accounting Parties, or ascertaining the Particulars or Amount of the Property touching which the Question or Questions may have arisen: Provided always, that if the Court shall be of opinion that the Application is fraudulent or collusive, or for some other Reason ought not to be entertained, it shall have Power to refuse to make the Order prayed

Court may order Real Estate to be sold, if required, at any Time after Institution of a Suit.

15 & 16 Vict. c. 86. s. 55.

CXII. If after a Suit shall have been instituted in the said Court in relation to any Real Estate it shall appear to the Court that it will be necessary or expedient that the said Real Estate or any Part thereof should be sold for the Purposes of such Suit, it shall be lawful for the said Court to direct the same to be sold at any Time after the Institution thereof, and such Sale shall be as valid to all Intents and Purposes as if directed to be made by a Decree or Decretal Order on the Hearing of such Cause; and any Party to the Suit in possession of such Estate, or in receipt of the Rents and Profits thereof, shall be compelled to deliver up such Possession or Receipt to the Purchaser or such other Person as the Court shall direct; and all Parties having Charges on such Estate, or an Interest in the Produce thereof, shall have the same Lien upon the Purchase Money that they had upon the Estate; and such Purchase Money shall be brought into and remain in Court to abide the Event of any Accounts which may be necessary for ascertaining such Charges: Provided, nevertheless, that the Court shall be at liberty pending such Account to order Payment of any Portion of the Fund in Court to any Party or Creditor who may appear to be entitled thereto pending such Accounts.

Where Real or Personal Property is the Subject of Proceedings, Court may allow to Parties Part or the whole of the annual Income.

15 & 16 Vict. c. 86. s. 57.

CXIII. Where any Real or Personal Property shall form the Subject of any Proceedings in the Court of Chancery, and the Court shall be satisfied that the same will be more than sufficient to answer all the Claims thereon which ought to be provided for in such Suit, it shall be lawful for the said Court, at any Time after the Commencement of such Proceedings, to allow to the Parties interested therein, or any One or more of them, the whole or Part of the annual Income of such Real Property, or a Part of such Personal Property, or a Part of the whole of the Income thereof, up to such Time as the said Court shall direct, and for that Purpose to make such Orders as may appear to the said Court necessary or expedient.

Practice as allocating and paying out Funds.

Allocation Schedule to be submitted to Chief Clerk of Judge for Inspection.

CXIV. For the Purpose of allocating and paying out Funds, the Solicitor having the Carriage of the Proceedings shall prepare in a Tabular Form an Allocation Schedule showing the Names of the several Parties and Creditors entitled to be paid, the Sum due to each, according to Priority, and the Sums to be respectively allocated and paid in discharge thereof; and such Schedule shall be submitted for Inspection to the Chief Clerk of the Judge, who shall see that all the Parties and Creditors properly entitled have been placed therein, and that the same is, so far as he can judge, substantially correct; and, when

Notice of the Lodgement thereof shall be given to the Parties and Creditors.

approved of, such Schedule shall be lodged in the Office of the Chief Clerk, and Notice thereof given to all Parties interested, or their Solicitors, and a Day shall then be appointed for the Hearing thereof, being not less than *One Month* from the Time of the Lodgement of such Schedule, and the Case shall be entered in the Judge's List of Causes for Hearing on such Day accordingly; and if such Schedule shall be unobjected to, the Judge shall, on the Day appointed for the Hearing thereof, or as soon after as the State of Business in his Office will permit, make an Order for Payment or Transfer (in the Case of Stock) of the several Sums to the Parties entitled thereto.

Objections may be lodged to allocating Schedule until within a Week of Day of Hearing.

CXV. After Service of Notice of the Lodgement of the Schedule, as in the next preceding Section is mentioned, all Parties shall be at liberty to inspect the same, and lodge Objections thereto (stating briefly the Grounds of Objection), at any Time until within *One Week* of the Day appointed for Hearing; and Notice of the Lodgement of such Objections shall be given to all Parties interested, and the same shall be taken into consideration by the Judge at the Hearing of the said Schedule, who shall make such Order therein, or as to the Costs thereof or occasioned thereby, as he shall think fit.

Master's Approbation of Transfer of Stock discontinued.

CXVI. The Practice of the said Court heretofore observed, of requiring the Approbation of a Master to Transfers of Stock and Investment of Cash, shall be discontinued, and that when hereafter any Order shall be made for such Transfer or Investment it shall be sufficient to produce to the Accountant General of the Court the Quotation or Calculation of a Notary as to the Value of such Stock, who shall act thereon without such Approbation.

In case Directions as to Practice, &c. not followed, Court may order and award Costs.
15 & 16 Vict. c. 86. s. 60.

CXVII. In case any of the Directions herein contained with respect to the Practice and Course of Proceeding in the said Court of Chancery shall by Mistake of Parties fail to be followed in any Suit or Proceeding in the said Court, it shall be lawful for the said Court, if it shall think fit, upon Payment of such Costs as such Court shall direct, to make such Order giving effect to and rectifying such Proceedings as may be justified by the Merits of the Case.

Court of Chancery not to direct Cases to be stated for Opinions of Court of Common Law, but to decide the same.
15 & 16 Vict. c. 86. s. 61.

CXVIII. It shall not be lawful for the said Court of Chancery, in any Cause or Matter, to direct a Case to be stated for the Opinion of any Court of Common Law, but the said Court of Chancery shall have full Power to determine any Question of Law which in the Judgment of the said Court of Chancery shall be necessary to be decided previously to the Decision of the equitable Question at issue between the Parties.

CXIX. In Cases where, according to the present Practice of the Court of Chancery, such Court declines to grant equitable Relief until the legal Title or Right of the Party or Parties seeking such Relief shall have been established in a Proceeding at Law, the said Court may itself determine such Title or Right, without requiring the Parties to proceed at Law to establish the same.

Court may determine legal Title of Party seeking Relief without requiring Parties to proceed to Law. 15 & 16 Vict. c. 86. s. 62.

CXX. The Lord Chancellor, with the Advice and Assistance of the Master of the Rolls and the Vice Chancellors, or any Three of them, may and they are hereby required from Time to Time to make General Rules and Orders for carrying the Purposes of this Act into effect, and for regulating the Times and Form and Mode of Procedure, and generally the Practice of the said Court in respect of the Matters to which this Act relates, so far as may be found expedient for altering the Course of Proceeding herein-before prescribed in respect to the Matters to which this Act relates, or any of them; and such Rules and Orders may from Time to Time be rescinded or altered by the like Authority, and all such Rules and Orders shall take effect as General Orders of the said Court.

Lord Chancellor and Judges to make General Rules and Orders for carrying Purposes of this Act into effect. 15 & 16 Vict. c. 86. s. 63.

CXXI. Inasmuch as the Emoluments of some of the Officers of the Court may be diminished by the Operation of this Act, or by the Rules and Orders to be made thereunder, for which they may claim to have Compensation made: It shall be lawful for the Commissioners of Her Majesty's Treasury for the Time being, and they are hereby required, within the Space of *Six* Calendar Months after any such Claim shall arise and be made, by Examination on Oath or otherwise (which Oath they and each of them are and is authorized hereby to administer), to inquire whether any, and, if any, what, Compensation ought to be made to any Officer or Person claiming such Compensation, and that in all Cases in which it shall appear to the said Commissioners that Compensation ought to be granted, it shall be lawful for the said Commissioners, by Warrant under their Hands, to order and direct that such annual or other Compensation shall be made to the Persons so claiming such Compensation as aforesaid, or any of them, as to the said Commissioners in their Discretion shall seem just and reasonable; and all such Compensation, whether annual or in gross, shall be payable out of such Funds as may be provided by Parliament for that Purpose.

Compensation for Diminution of Emoluments to be made to Officers.

CXXII. And whereas it is expedient that the Fees now payable by Suitors upon Proceedings in the said Court of Chancery as a Court of Equity and in Minor and Lunatic Matters, and also certain Duties of Stamps payable upon such Proceedings in pursuance of an Act of Parliament passed in the Fourth Year of the Reign of His late

Fees now payable by Suitors and certain Duties of Stamps abolished;

Majesty King George the Fourth, Chapter Seventy-eight, intituled "An Act to grant additional Stamp Duties on certain Proceedings in "the Court of Chancery, and in the Equity Side of the Court of "Exchequer in Ireland," should cease and be abolished, and that in lieu thereof certain Fees should be collected and paid upon the Proceedings in the said Court, as herein-after provided: Be it enacted, That from and after the *Commencement of this Act*, all Fees now payable upon Proceedings in the said Court of Chancery and in Lunacy (except as herein-after is provided), under the Authority of any Act of Parliament, General Order, or otherwise, shall cease and determine and are hereby abolished, *and that in lieu of such Fees and Duties of Stamps there shall be granted, raised, levied, collected, and paid, for and in respect of the several Proceedings in the said Court of Chancery in Ireland, and in Matters of Minority and Lunacy set forth in the Schedule (G.) to this Act annexed, the several Sums set forth in the said Schedule: Provided always, that none of the Fees mentioned in the said Schedule shall be received in Money, but by a Stamp denoting the Amount of the Fee which otherwise would be payable; and when any Fee shall be payable in respect of any Document mentioned in the said Schedule, such Stamp shall, at the Expense of the Party liable to pay the Fee, and in such Manner and under such Regulations as shall be by any General Order directed, be stamped or affixed on the Vellum, Parchment, or Paper on which the Proceedings in respect whereof such Fee is payable is written, printed, or engrossed: Provided always, that nothing in this Act contained shall apply to the Office of the Clerk of the Crown and Hanaper, or to the Fees payable to the Court of the Crown and Hanaper, but that such Fees shall be received and accounted for as at present pursuant to the Provisions of the Act of the Sixth and Seventh of William the Fourth, Chapter Seventy-four; and provided also that nothing in this Act contained shall alter, affect, or prejudice the Right of the Usher of the Court of Chancery to receive the Fee of Sixpence in the Pound payable for all Monies deposited pursuant to Orders of the Court under the Provisions of the Act of the Twenty-third and Twenty-fourth of George the Third, Chapter Twenty-two, but that such Poundage shall be continued to be charged as at the present Time, as if this Act had not passed.*

and in lieu thereof certain Fees shall be received.

Commissioners of Inland Revenue to give the necessary Directions as to the Stamps, to keep separate Accounts, and

CXXIII. Upon the passing of this Act the Commissioners of Inland Revenue shall give the necessary Directions for carrying the same into effect, and shall provide everything that shall be necessary for that Purpose, and shall do or cause to be done everything that shall be necessary for the Receipt and Collection of the Money to be paid for such Stamps; and the said Commissioners shall cause separate and distinct Accounts to be kept of all Sums of Money received or collected by them under the Provisions of this Act, and of all Costs, *Charges, and Expenses incurred by them, or by their Direction, in carrying the same into effect; and it shall be lawful for the said Commissioners to pay and to deduct and retain out of such Monies all such Costs, Charges, and Expenses, and also to deduct all Sums of Money repaid on Allowances for spoiled Stamps, and after such Deduction they shall from Time to Time pay the Monies so to be received and collected into the Bank of Ireland to the Credit of the Accountant General of the Court of Chancery, to be placed to the Account there called "The Suitors Fee Fund Account."*

pay Monies into Suitors Fee Fund.
15 & 16 Vict. c. 87. s. 8.

CXXIV. The Provisions contained in the several Acts for the Time being in force relating to Stamps under the Care or Management of the Commissioners of Inland Revenue shall (so far as the same are applicable and consistent with the Provisions of this Act), in all Cases not hereby expressly provided for, be of full Force and Effect with respect to the Stamps to be provided under or by virtue of this Act, and to the Vellum, Parchment, or Paper on or to which the same Stamps shall be impressed or affixed, and be applied and put in execution for collecting and securing the Sums of Money denoted thereby, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relating thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively.

Provisions of former Acts relating to Stamps to be applicable to Stamps under this Act.
15 & 16 Vict. c. 87. s. 11.

CXXV. No Document which by any Order or Orders to be respectively made as aforesaid shall be required to have a Stamp impressed thereon or affixed thereto shall be received or filed, or be used in relation to any Proceeding in the Court of Chancery, or be of any Validity for any Purpose whatsoever, unless or until the same shall have a Stamp impressed thereon or affixed thereto in the Manner directed by such Order: Provided always, that if at any Time it shall appear that any such Document which ought to have had a Stamp impressed thereon or affixed thereto has, through Mistake or Inadvertence, been received or filed or used without having such Stamp impressed thereon or affixed thereto, it shall be lawful for the Lord Chancellor, if he think fit, to order that such Stamp shall be impressed thereon or affixed thereto, and thereupon when a Stamp shall have been impressed on such Document or affixed thereto in compliance with any such Order, such Document, and every Proceeding in reference thereto, shall be as valid and effectual as if such Stamp had been impressed thereon or affixed thereto in the first instance.

No Document to be received or used unless Stamped.
15 & 16 Vict. c. 87. s. 12.

CXXVI. If any Officer of the Court of Chancery or other Person shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act, or

Officers guilty of Fraud or wilful Neg-

lect in relation to Stamps liable to be dismissed.
15 & 16 Vict. c. 87. s. 13.

to any Fee or Sum of Money to be collected or which ought to be collected by means of any such Stamp, or if any such Officer or Person shall be guilty of any wilful Act, Neglect, or Omission in relation to any such Stamp or Fee as aforesaid, whereby any Fee or Sum of Money which ought to be collected for the Benefit of the said Fee Fund shall be lost to the said Fee Fund, or the Payment thereof evaded, every such Officer or Persons so offending shall be dismissed from his Office or Employment, if the Lord Chancellor shall think fit so to order.

Certain Fees payable to Lord Chancellor and other Officers of the Court in respect of Patents and other Matters continued.

CXXVII. And whereas, in pursuance of the Act of Parliament of the Fourth Year of the Reign of His late Majesty King George the Fourth, Chapter Sixty-one, and the Tables thereto annexed, certain Fees are payable to the Lord High Chancellor of Ireland, and to certain Officers of the Court of Chancery, for and in respect of Patents and other Matters not connected with the Proceedings on behalf of the Suitors of the said Court, which Fees it is not expedient at present to abolish, and in order to remove Doubts as to the Collection of the said Fees after the passing of this Act: Be it enacted, That it shall and may be lawful for the Lord High Chancellor for the Time being, and for the Lord Chancellor's Secretary, the Deputy Keeper of the Rolls, and other Officers mentioned in the Schedule (H) to this Act annexed, and their several Deputies and Clerks, to ask, demand, and receive for and on account of the several Matters and Things to be done in or concerning the Business of their respective Offices, or of the Services to be performed touching or concerning such Offices in relation to the Matters and Things in the said last-mentioned Schedule set forth, the several Fees, Payments, and Sums of Money now payable under the Provisions of the said Act of the Fourth of George the Fourth, Chapter Sixty-one, and the Tables thereto annexed, specified in the said Schedule (H) to this Act annexed.

Officers whose Fees are abolished, to be paid by Annual Salaries.

CXXVIII. And whereas several of the Officers of the said Court of Chancery have received and do now receive for their own Use various Fees and Emoluments for Business done and transacted by them in and by virtue of their respective Offices, the greater Part of which Fees will be by the Operation of this Act abolished, and some of the said Fees will be continued, and it is expedient that such Officers should not henceforth receive any Fees for their own Use, but should in lieu thereof be paid by adequate Salaries for the Performance of their respective Duties: Be it therefore enacted, That from and after the *Commencement of this Act*, no Officer of the Court of Chancery, or any of the Judges thereof, shall be entitled to receive and retain for his own Use any Fee or Reward whatsoever; and all Officers of the Court of Chancery now entitled to receive and retain any Fees or other Payments for their own Use which by virtue of this Act they will cease so to receive, and whose Salaries are not fixed by this Act or by any previous Act, shall, while they continue to hold their respective Offices, receive in lieu of all Fees or other Payments whatsoever now received by or paid or payable to them for their own Use, such annual Salary as shall equal the Amount of the net Profits of their respective Offices, to be ascertained by the Commissioners of Her Majesty's Treasury, on an average of the net Receipts of their said Offices for *Three* Years next immediately preceding the passing of this Act; and upon the present Holders of such Offices respectively ceasing to hold the same, the Commissioners of Her Majesty's Treasury shall fix the Salaries to be hereafter received in respect thereof with reference to the Nature and Duties of such Offices respectively.

Salaries.

CXXIX. All such annual Salaries shall grow due from Day to Day, but shall be payable under an Order of the Lord Chancellor on the Day of , the Day of , the Day of , and the Day of , in every Year, and shall be paid to the Parties entitled thereto, or their respective Executors or Administrators, out of the Fund standing in the Name of the Accountant General of the Court of Chancery in Ireland, entitled "The Suitors Fee Fund Account;" and in case the said Funds shall be deficient for Payment thereof, then out of such Monies as may be provided by Parliament for the Purpose.

Officers to receive Fees in Schedule H., and pay same into the Suitors Fee Fund.

CXXX. The several Officers named in the Schedule (H) to this Act annexed shall from Time to Time receive the Fees stated in the said Schedule, and keep true and accurate Accounts thereof, and shall pay into the Bank of Ireland to the Credit of the said Accountant General, once in every Month, all Fees or Sums of Money so to be received by them respectively, to be verified by Affidavit; and the several Sums so paid in shall be from Time to Time paid to the said Account called "The Suitors Fee Fund Account."

Lord Chancellor empowered to order Payment of Expenses of Officers, &c.

CXXXI. It shall be lawful for the Lord Chancellor, by any Order or Orders to be from Time to Time made for that Purpose, to order Payment at such Times and in such Manner as he shall think fit, of all such Sums as shall appear to him to be reasonable and proper to be paid for the Care and Cleaning of the several Buildings, Courts, and Offices of the said Court of Chancery, and for Books and Stationery, and for copying, writing, printing, and comparing Official Documents and Records of the said Court and Offices, and for other necessary Expenses relating to the said Courts and Offices and the Business thereof, and all such Sums as aforesaid shall be from Time to Time payable out of the Account called "The Suitors Fee Fund Account."

Construction of Terms.

CXXXII. In the Construction of this Act, the Expression "the Lord Chancellor" shall mean the Lord Chancellor of Ireland, and shall include the Lord Keeper, and Lords Commissioners for the Custody of the Great Seal in Ireland; and the Expression "the Court" shall mean the Lord Chancellor or such other Judge of the High Court of Chancery in Ireland as under the Provisions of this Act shall have cognizance of any Cause or Matter for Hearing thereof, or to whose Special Court the same shall be attached; and the Word "Person" shall include Corporation, and shall also include Her Majesty's Attorney or Solicitor General in Cases of Charities or of Informations at the Suit of Her Majesty.

SCHEDULE (A.)

FORM 1.

Petition by a Legal or Equitable Mortgagee, or Person entitled to a Charge or Incumbrance affecting Property, seeking Foreclosure, and Sale or Sales.

Cause Petition,
P.R. Petitioner,
R.T. and *R.S.* Respondents,
and in the Matter of the Court of Chancery (Ireland) Regulation Act, 1850.

To the Right Honourable the Lord High Chancellor of Ireland.

The humble Petition of *P.R.* [*state Addition and Residence.*]

1. Your Petitioner humbly showeth, That under and by virtue of an Indenture of Mortgage [*or other Document or Security, as the Case may be*], and by virtue of a Judgment, which Securities are designated by the Letters (*a*) and (*b*) [*or as the Case may be*] in Schedule A. hereunder written, one *C.D.* was entitled, as Mortgagee, to certain Property in the said Schedule mentioned, and as Judgment Creditor to a Charge on certain Property in the said Schedule also mentioned.

2. That the Time for Payment of the Sums secured thereby respectively has elapsed.

3. That the Right, Title, Estate, and Interest in the said Securities are now vested in the Petitioner by virtue of the Documents designated by the Letters (*c*), (*d*), and (*e*), [*or as the Case may be*] in Schedule B. hereunto annexed.

4. That the Equity of Redemption of the mortgaged Property, and the Estate and Interest in the Property subject to the said Judgment, [*or as the Case may be,*] became and are vested in the Respondents under and by virtue of the Documents designated by the Letters (*f*), (*g*), and (*h*) [*or as the Case may be*] in Schedule C. hereunto annexed.

5. That there is contained in Schedule A. Column 7. a Statement of the Sums due to Petitioner for Principal and Interest on Foot of the Securities in the said Schedule set forth.

6. That the several Statements in the said Schedules respectively are true in every Particular, and no Deed or Document in the said Schedules mentioned is in the Power, Custody, or Possession of Petitioner, except those stated to be in his Possession or in the Possession of his Solicitor.

7. Your Petitioner prays that he may be paid the said Sums, and the Costs of this Suit, and in default thereof that the Equity of Redemption in the Property mortgaged may be foreclosed, and the said Property may be sold, and that the Property which is subject to the said Judgment may also be sold, and that the Produce of the Sales may be applied to pay the Debts affecting the Properties respectively, and Petitioner's Costs; and for that Purpose that all proper Directions may be given and Accounts taken; and Petitioner prays general Relief.

SCHEDULE A.

	Date of Security, and Parties thereto, and when registered. 1	Lands [*or other Property, as the Case may be,*] included in or affected by the Security. 2	Estate or Interest of the original Debtor in the Lands or other Property at the Date of the Security. 3	Quantity of the Estate or Interest of the original Debtor included in or affected by the Security. 4	Sum secured by the Security, and the Rate of Interest payable thereon. 5	Period when Security payable. 6	Sum due, and to what Period, distinguishing Principal from Interest. 7	In whose Possession the Security, or the Evidence thereof, is. 8
(*a*)	Deed of Mortgage, dated 1st January 1840, between *A.B.* of in the County of of the First Part, and *C.D.* of in the County of of the Second Part. Registered, 1st February 1840.	The Lands of Blackacre, containing 500 Acres, situate in the Barony of and in the County of	*A.B.* at the Date of Mortgage seised in Fee of the Lands of Blackacre [*or as the Case may be*].	Mortgage in Fee [*or* for Ninety-nine Years, *or* for the Lives of *A.B.* and *C., as the Case may be*].	£1,000, with Interest at Five per Cent.	Payable 1st November 1840.	£1,000 Principal, with £50 for One Year's Interest up to and for the 1st January 1851.	Mortgage in the Possession of Petitioner's Solicitor.
(*b*)	Judgment obtained in the Court of Queen's Bench on the 1st May 1844 by the said *C.D.* against the said *A.B.* Registered, 1st December 1844.	The Equity of Redemption in the said Lands of Blackacre and the Lands of Whiteacre, containing 300 Acres, situate in the Barony of in the County of .	*A.B.* when Judgment obtained seised in Fee of the Equity of Redemption in the Lands of Blackacre, and seised for Lives renewable for ever in the Lands of Whiteacre, under Lease made to him by *J.W.*, dated 1st June 1841.	The entire Estate and Interest of *A.B.* in Blackacre subject to the said Mortgage. The entire Estate and Interest of *A.B.* in Whiteacre.	£1,000, with Interest at Six per Cent.	Payable 1st July 1844. Stay of Execution to that Day.	£1,000 Principal, with £120 for Two Years Interest up to and for 1st January 1851.	Attested Copy of Judgment in Possession of Petitioner's Solicitor.

SCHE-

SCHEDULE B.

Date and Nature of Document, and when registered. 1.	Parties thereto. 2.	Security assigned. 3.	In whose Possession the Document in Column 2, or the Evidence thereof, is. 4.
(*c*) 1st March 1845. Deed, Registered 2d March 1845.	*C.D.*, the Mortgagee in Schedule A. mentioned, 1st Part. *E.F.* of in the County of 2d Part.	The Mortgage in Schedule A. mentioned.	In Possession of Petitioner.
(*d*) 1st June 1846. Deed, Registered 4th June 1846.	*G.H.*, Executor of the last Will or Testament of the said *E.F.*, and *I.K.*, Heir-at-law of said *E.F.*, 1st Part. The Petitioner *P.R.* of the 2d Part.	The Mortgage in Schedule A. mentioned.	Lost. The secondary Evidence thereof is a Copy of said Deed, and the attested Copy of the Memorial of the Registry thereof in the Possession of the Petitioner's Solicitor.
(*e*) 20th September 1845. Deed.	*C.D.*, the Conusee of the Judgment in Schedule A., 1st Part. The Petitioner *P. R.*, 2d Part.	The Judgment in Schedule A. mentioned.	The attested Copy of the Memorial of the Assignment in the Possession of Petitioner's Solicitor.

SCHEDULE C.

Date and Nature of Document, and when registered. 1.	Parties thereto. 2.	Property assigned and devised. 3.	In whose Possession the Document in Column 2, or the Evidence thereof, is. 4.
(*f*) 2d of February 1845. Deed, Registered 10th of February 1845.	*A.B.*, in Schedule A. mentioned, of the 1st Part. The Respondents *R.T.* and *R.S.*, 2d Part.	All the Estate and Interest of *A.B.* in the Lands of Blackacre subject to the Mortgage.	In Possession of the Respondents.
(*g*) 4th July 1845. Deed, Not registered.	Said *A.B.* 1st Part. *Y.Z.* of in the County of 2d Part.	Whiteacre.	In Possession of the Respondents.
(*h*) 3d April 1849. Will.	Testator *Y.Z.* died on the Day of 18 .	Whiteacre.	Lodged in the Prerogative Court.

I.S., Solicitor for Petitioner.
[*Residence.*]
H.S., Counsel.

The Respondents *R. T.* and *R. S.* are to be served with Notice of the Petition.

H. S. Counsel for Petitioner.

SCHEDULE (B.)

Form of Notice of Petition to be served under the Nineteenth of the General Orders.

Form of Notice of Petition to be served upon a Respondent in Ireland.

P.R. Petitioner,
R.T. and *R.S.* Respondents,
and in the Matter of the Court of Chancery (Ireland) Regulation Act, 1850.

Sir,

Take notice, That a Petition was filed in this Matter on the Day of 18 , against you and the Respondent *R.S.*, which prays as follows:—

[*Set out the Prayer of the Petition;*] and you are hereby informed, That you are at liberty, if you have any Defence to the said Petition, to file an Affidavit by way of Answer thereto, within (*a*) [Twenty] Days after the Service of this Notice. [And you are required within the said Time to answer on Oath the Interrogatories annexed to the Petition (*or* filed the Day of 18 , *as the Case may be,*) (*a*).]

I. S., Solicitor for the Petitioner.
(*Residence.*)

To the Respondent *R.T.*
of [*Addition and Residence*].

(*a*) If an Order shall be made for liberty to annex or file Interrogatories before the Service of this Notice, add the Words in Brackets; and instead of [Twenty] Days insert the Time mentioned in such Order within which the Interrogatories are to be answered.

No. 2.

Form of Notice of Petition to be served upon a Respondent resident out of Ireland.

P.R. Petitioner,
R.T. and *R.S.* Respondents,
and in the Matter of the Court of Chancery (Ireland) Regulation Act, 1850.

Sir,

Take notice, That a Petition was filed in this Matter on the Day of 18 , against you and the Respondent *R.T.*, which prays as follows:—

[*Set out the Prayer of the Petition;*] and you are hereby informed, That you are at liberty, if you have any Defence to the said Petition, to file an Affidavit by way of Answer thereto within [(*a*)] after the Service of this Notice. [And you are required, within the said Time, to answer on Oath the Interrogatories annexed to the Petition (*or* filed on the Day of 18 , *as the Case may be,*) (*b*)]; and you are herewith served with a Copy of the Order of the Court, bearing Date the Day of 18 , giving Liberty to serve you with this Notice out of the Jurisdiction of the Court.

I.S., Solicitor for Petitioner,
(*Residence.*)

To the Respondent
R.S. of
[*Addition and Residence.*]

(*a*) The Twenty-sixth Section directs that the Order of the Court, giving Liberty to serve a Respondent out of the Jurisdiction, shall limit the Time after Service of the Notice within which the Respondent is to file an Affidavit by way of Answer. The Blank should be filled up from the said Order.

(*b*) The Words in Brackets are to be added if Interrogatories have been annexed to the Petition or filed. If it should happen that the Order giving Liberty to answer the Interrogatories has given a longer Time to answer than the Order made under the Twenty-sixth Section, the Blank marked (*a*) should be filled up with such longer Period.

SCHEDULE (C.)

Directions for the Preparation of Affidavits filed by the Respondent by way of Answer.

Instructions for preparing the Affidavit by way of Answer.

A.B., Petitioner,
L.M., Respondent,
and in the Matter of the Court of Chancery (Ireland) Regulation Act, 1850.

Affidavit by way of Answer of *L.M.* of [*state Addition and Residence*], the Respondent in this Matter.

I, *L.M.*, of the Respondent [*state Addition and Residence*], by way of Answer to the Petition in this Matter, make Oath and say,—

First,

That my Defence in Point of Law to the said Petition is as follows:—(*a*)

(*a*) First.—State in ordinary Language, and without Repetition, and as concisely as is possible consistent with Clearness, the Defence of the Respondent (if any) in point of Law, and without Reference to any Document or the Evidence to sustain such Defence, except so far as may be necessary to make the Defence intelligible; and if the legal Defence is only applicable to a Portion of the Petition, the Portion to which it is applicable should be shortly referred to; and if the Respondent insists that the Petition and the Documents, if any, referred to therein, do not authorize the Petitioner to sue, the specific Grounds of Objection should be shortly stated.

Secondly (*b*).

I put the Petitioner upon Proof of the Paragraphs in his Petition numbered 2, 4, 7 [*or as the Case may be*], and put the Petitioner upon Proof of the following Documents; viz., the Deeds of the 2d of February 1842 and of the 1st July 1843, and the Letters of the 2d and 5th of January 1847 and 1st March 1848, referred to in the Petition and the Schedule thereto [*or as the Case may be*].

(*b*) Secondly.—If the Respondent disputes any Matter of Fact or Documents stated or referred to in the Petition, he is to put the Petitioner on Proof thereof in the Manner herein stated.

Thirdly (*c*).

I rely on the Deeds, Documents, and Paper Writings [*or as the Case may be*] in the Schedule hereunder written in support of my said Defence; and say, that no Deed, Document, or Paper Writing [*or as the Case may be*] in the said Schedule mentioned, is in my Custody, Power, or Possession, except those stated in the said Schedule to be in my Possession or in the Possession of my Solicitor; and the said Schedule is, as I believe, true in every Particular.

(*c*) Thirdly.—The Respondent is to refer to any Deeds, Documents, or Paper Writings which he relies upon in the Manner or to the Effect hereby directed, and without stating the Contents of the same.

Fourthly.

I rely on the following Facts in support of my said Defence; and say,—

1st. (*d*)
2d.
3d.
4th.
5th.
6th, &c.

(*d*) Fourthly.—The Respondent shall state, in ordinary Language, and without Repetition, and as concisely as is consistent with Clearness, the Facts upon which he relies in support of his legal Defence; and the Statement shall be divided into short and separate Paragraphs as conveniently as may be, which shall be numbered consecutively 1, 2, 3, &c.; and if it shall be necessary to state the Contents of any Records, Deeds, or Documents, such Parts alone as shall be pertinent and material shall be set out; and the Part so set out shall be abstracted and stated as concisely as is possible; and the Names of the several Parties to Deeds and Documents shall not be repeated, but the Deed or Document shall be referred to merely by its Date, as stated in the Schedule to the Affidavit.

Fifthly.

And in answer to the Interrogatories annexed to the Petition, I admit, *&c.* [*or as the Case may be.*]

Fifthly.—If Interrogatories have been annexed to the Petition, or filed before the Affidavit by way of Answer shall be sworn, the Answers to such Interrogatories shall be here inserted; and the Answer to each Interrogatory shall have a Number prefixed corresponding with the Interrogatory.

SCHEDULE to the Affidavit filed by the Respondent *L.M.*, by way of Answer to the Petition.

Date and Nature of Document.	Parties thereto, or who have signed the same.	In whose Possession the Document in Column 2., or the Evidence thereof, is.
1st January 1842. Deed.	*A.B.* of the 1st Part. The Respondent *L.M.* of the 2d Part.	In the Possession of the Respondents.
2d October 1845. 3d February 1846. Letters.	In the Handwriting of and signed by the Petitioner.	In the Possession of Respondent's Solicitor.
4th July 1847. Articles of Agreement.	*F.G.* of the one Part. The Respondent *L.M.* of the other Part.	In the Possession of John Styles of in the County of Gentleman.

W.D., Counsel for the Respondent.

L.P., Solicitor for the Respondent.
[*Residence.*]

SCHEDULE (D.)

Form of Notice to be served under the Thirty-fourth Section of this Act.

No. 1.

If the Affidavit by way of Answer filed by the Respondent shall put the Petitioner on Proof of any Matter of Fact or Document stated or referred to in the Petition, and if the Petitioner does not dispute any Matter of Fact or Document stated or referred to in the said Affidavit filed by way of Answer, or the Schedule thereto, the Form of Notice under the Thirty-fourth Section shall be as follows, or as near thereto as Circumstances will permit:—

A.B. Petitioner,
L.M. Respondent,
and in the Matter of the Court of Chancery (Ireland) Regulation Act, 1850.

Sir,

Take notice, That the Petitioner will proceed, within the Period allowed by the from the Date of the Service of this Notice, to prove the Paragraphs in the Petition, and the Documents therein referred to, upon the Proof of which he has been put by the Affidavit by way of Answer of the Respondent *L.M.*, filed the Day of 18 , and that the Petitioner will proceed to make such Proof, or such Part as he shall think fit, pursuant to the Thirty-fourth Section.

F.B., Solicitor for the Petitioner.
[*Residence.*]

No. 2.

If the Affidavit by way of Answer filed by the Respondent shall not put the Petitioner on Proof of any Matter of Fact or Document stated or referred to in the Petition, and if the Petitioner disputes any Matter of Fact or Document stated or referred to in the said Affidavit filed by way of Answer, or the Schedules thereto, the Form of Notice under the Thirty-fourth Section shall be as follows, or as near thereto as Circumstances will permit:—

A.B. Petitioner,
L.M. Respondent,
and in the Matter of the Court of Chancery (Ireland) Regulation Act, 1850.

Sir,

Take notice, That the Petitioner puts the Respondent *L.M.* upon Proof of the Paragraphs in the Statement in his Affidavit filed by way of Answer numbered 3, 5, 8, [*or as the Case may be,*] and puts the said Respondent upon Proof of the following Documents in the said Affidavit and the Schedule thereto set forth; viz.,

[*Here set forth the Dates of the Documents*] (*and if the Petitioner desires to have such Proofs or any of them made vivâ voce, add these Words:* "and that the Petitioner requires the Respondent to prove the said Matters vivâ voce;" *or, if he only desires a Portion of the said Proof to be made vivâ voce, the following Words:* "and that the Petitioner requires the Respondent to prove vivâ voce the following Matters; namely," *&c.*, *&c.*, *setting out the particular Matters*); and the Petitioner, if so advised, will proceed to give Evidence to disprove such Paragraphs and Documents.

F.B., Solicitor for the Petitioner.
[*Residence.*]

No. 3.

If the Affidavit by way of Answer filed by the Respondent shall put the Petitioner on Proof of any Matter of Fact or Document stated or referred to in the Petition, and if the Petitioner disputes any Matter of Fact or Document stated or referred to in the said Affidavit filed by way of Answer, or the Schedules thereto, the

Form of Notice under the Thirty-fourth Section shall be as follows, or as near thereto as Circumstances will permit:

A.B. Petitioner,
L.M. Respondent,
and in the Matter of the Court of Chancery (Ireland) Regulation Act, 1850.

Sir,

Take notice, That the Petitioner will proceed, within the Period allowed by the General Orders of the Court from the Date of the Service of this Notice, to prove the Paragraphs in the Petition, and the Documents therein referred to, upon the Proof of which he has been put by the Affidavit by way of Answer of the Respondent *L.M.*, filed the Day of 18 ; and the Petitioner puts the said Respondent upon Proof of the Paragraphs in the Statement in his said Affidavit numbered 2, 6, 7 [*or as the Case may be*]; and the Petitioner also puts the Respondent upon Proof of the following Documents in the said Affidavit and the Schedule thereto set forth; viz.,

[*Here set forth the Dates of the Documents;*] and the Petitioner, if so advised, will proceed to give Evidence to disprove such last-mentioned Paragraphs and Documents.

[*And if the Petitioner desires to make his Proofs or any Part thereof by Affidavit, or if he shall require the Respondent to make his Proofs or any Part thereof vivâ voce, add a Notice to that Effect in manner pointed out by the Forms Numbers* 1 *and* 2.]

F.B., Solicitor for the Petitioner.
[*Residence.*]

SCHEDULE (E.)

Form of Notice to be served under the Section of this Act.

A.B. Petitioner,
L.M. Respondent,
Court of Chancery (Ireland) Regulation Act, 18 .

Sir,

Take notice, That a Petition was filed in this Matter on the Day of 185 ; [*state here from the Rolls Certificate the Dates of the Affidavits by way of Answer, if any, which may have been filed, and by whom; if any Order has been made by the Court, state that an Order has been made, and state its Date, but not any Part of its Contents; and if a*
state its Date, and state the Date of each important Proceeding, but without setting forth any Part thereof;] and you are at liberty to inspect Copies of the said several Documents at my Office; and you are further required to take notice that you will, under the
Section of the Act of become by the Service of this Notice a Party to the several Proceedings had in this Cause as effectually as if you had been named a Respondent in the Petition,

and will be bound by the several Proceedings already had, unless within Ten Days after the Service hereof you shall show good Cause to the contrary [*state the Documents on which the Motion is grounded*].

I.S., Solicitor for the Petitioner.
[*Residence.*]

SCHEDULE (F.)

In the Matter of In Chancery.
Petitioner.
Respondent.

Particulars of the Claim of a Creditor in this Matter.

Name of Claimant. 1	Address of Claimant. 2	Nature of Claim. 3	Date of Claim. 4	Principal. 5	Interest up to Day of	Observations.

SCHEDULE (G.)

Fees to be collected *by means of Stamps.*

	£	s.	d.
Affidavit, Affirmation, Declaration, or Deposition taken in any Cause, Cause Petition Matter, or other Matter	*0*	*5*	*0*
Caveat. On every Caveat - - - - -	*0*	*5*	*0*
Certificates. On every Certificate signed by any Officer of the Court (except Certificates at the Foot of Bills of Costs), but not to be chargeable in any Case where a Search is paid for at the Time of requiring the Certificate - - - - - -	*0*	*3*	*0*
On every Certificate at the Foot of any Bill of Costs, where the Amount as furnished or claimed by			

	£	s.	d.
such Bill shall not exceed the Sum of Fifty Pounds Sterling	0	10	6
Where such Amount shall exceed the Sum of Fifty Pounds Sterling, for every Ten Pounds Sterling above Fifty Pounds Sterling an additional Sum of	0	3	0
Copies. For attested Copies of Pleadings and of all Records and other Documents of which Copies shall be required from any of the Offices of the Court of Chancery, or in any Matters of Lunacy, for each Folio containing Seventy-two Words	0	0	4
For re-attesting all such Copies of Pleadings, Records, and other Documents, for every Twenty Folios of Seventy-two Words each such Copy shall contain	0	1	0
Attending in any Office of the Courts with any Pleading or Record the Production of which may be required before any Officer or Judge other than the Officer or Judge in whose Office or Court the same shall be remaining of Record or in Custody	0	10	0
Claim. On every Claim on behalf of a Creditor or Third Party, over and above the Stamp on the Affidavit	0	5	0
Docket, for setting down Cause, or Cause Petition Matter, for Hearing before the Lord Chancellor, Master of the Rolls, or Vice-Chancellors	0	10	0
Decree. On every Decree or Order in the Nature of a Decree by the Lord Chancellor, Master of the Rolls, or Vice-Chancellors	1	0	0
Drawing and engrossing same for Signature, where it shall be prepared by the Officer of the Court, for each Folio of Seventy-two Words	0	0	8
For the Docket of every Decree or Dismiss presented for the Lord Chancellor's Signature	0	15	0
Exceptions. For every Set of Exceptions filed on behalf of any Party or Third Person	0	5	0
Interrogatories. On every Set of Interrogatories for the Examination of Witnesses	0	5	0
Enrolment of any Deed or Document, for each Folio of Seventy-two Words	0	1	0
Leases. Any Lease, and any Counterpart thereof	0	15	0
Notices. Any Notice, Advertisement, or Posting to sell or to let, pursuant to any Decree or Order	1	1	0

	£	s.	d.
NOTICES. Any Notice or Summons requiring the Attendance of any Party or Parties in any Cause or Matter before any Judge or Officer of the Court - -	*0*	*5*	*0*
——— And for every Copy thereof - - -	*0*	*1*	*0*
——— Any Notice or Summons requiring the Attendance of any Person or Persons to be examined as a Witness or Witnesses in any Cause or Matter, or to produce Documents - - - - -	*0*	*5*	*0*
——— Any other Notices - - - -	*0*	*2*	*6*
——— Copy for Service of every Notice, not otherwise charged - - - - -	*0*	*0*	*6*
OBJECTIONS. On every Set of Objections filed on behalf of any Party or Third Person in any Cause or Matter - - - - - -	*0*	*5*	*0*
PETITIONS. On every original Petitition filed, whether Interrogatories shall be annexed at the Time of filing or not - - - -	*1*	*0*	*0*
——— On every Set of Interrogatories to be annexed, filed subsequent to the filing of the original Petition -	*0*	*10*	*0*
——— On every other Petition - - -	*1*	*0*	*0*
RECOGNIZANCES. On every Recognizance - - -	*1*	*0*	*0*
——— On the Vacate of every Recognizance - -	*1*	*0*	*0*
SEARCHES. Search for Papers or Documents for any Period exceeding One Year and not exceeding Three Years antecedent to the Time of making such Search, where the Party requiring the Search to be made shall not take a Copy of the Document or Documents searched for - - - -	*0*	*1*	*0*
And where no Certificate shall be required -	*0*	*1*	*0*
——— Search for Papers or Documents in any of the Offices of the Court of Chancery for any Period exceeding Three Years antecedent to the Time of making such Search (where the Party requiring the Search to be made shall not take out a Copy of the Document or Documents searched for), and giving Certificate, if required - - - -	*0*	*3*	*0*
ORDERS. For every Order made by the Lord Chancellor, Master of the Rolls, or Vice-Chancellors respectively, and which shall be drawn up and signed by the proper Officer - - - -	*0*	*10*	*0*
And for drawing and engrossing same, in addition to the foregoing, for each Folio of Seventy-two Words - - - - - -	*0*	*0*	*8*
——— On every Exemplification of an Order - -	*0*	*10*	*0*

	£	s.	d.
WRITS. On every Commission of Lunacy	4	11	0
Writ of Error to the Twelve Judges or to Parliament	2	10	0
Writ of Error Coram vobis	0	15	1
Common Error to a Sheriff or Seneschal	0	4	0
On any other Writ issued from the Office of the Clerk of Appearances and Writs	0	10	0
WRIT OF EXECUTION or Exemplification of a Decree, for each Skin of Eight hundred Words	1	5	0

SCHEDULE (H.)

No. 1.—TABLE OF FEES payable to the LORD CHANCELLOR OF IRELAND, or to the Lord Keeper or the Commissioner for the Custody of the Great Seal of Ireland.

On Letters Patent.	£	s.	d.
For every Patent with One Denomination	0	9	2
And for every subsequent Denomination in a Patent	0	9	2
For Gloves, in addition to the Fee of Ten Shillings upon every Patent appointing or translating a Bishop or creating a Baron, containing One Denomination	3	3	0
And for every subsequent Denomination in such Patent	3	3	0
For a Sheriff's Patent	0	2	0
Upon a Vacate entered on the Enrolment of Letters Patent	1	1	0

No. 2.—TABLE of all the FEES which it shall be lawful for the DEPUTY KEEPER OF THE ROLLS, the CLERK OF THE ENROLMENTS, or any Clerk or other Person employed in the Rolls Office in Ireland, to demand or accept for or on account of any Act, Matter, or Thing done in or concerning the Business at the Rolls Office.

	£	s.	d.
For enrolling every Duke's Patent	17	10	9
For enrolling every Marquis's Patent	17	10	9
For enrolling every Earl's Patent	17	10	9
For enrolling every Viscount's Patent	17	10	9
For enrolling every Archbishop's Patent	17	10	9
For enrolling every Bishop's and Baron's Patent	10	12	4
For enrolling every Baronet's Patent	6	3	0
For enrolling every Patent of a Commissioner of Appeal	1	12	2

	£	s.	d.
For enrolling every other Patent, of whatever Description the same may be, except Patents for Commissioners of Accounts and Inquiry, for each Roll consisting of Seven hundred and twenty Words which such Patent shall contain - - - - -	1	4	8
Any One Fraction of a Roll to be charged as an entire Roll, but not more than One Fraction to be charged for in any One Document.			
For enrolling every Act or Order in Council - -	0	15	0
For Surrender before the Lord Chancellor of any Grant Patent or Article enrolled, and for entering Vacate thereof on the Roll - - - -	1	7	8
For every Constat, or Certificate of any Patent Grant, Deed, or other Document enrolled, including the Fee for Search and taking down the Roll - -	0	9	2
For filing every Certificate of Naturalization - -	0	2	6
For filing every Convert's Certificate - - -	0	0	6
For Certificate of Qualification of a Catholic - - -	0	1	0
For every Broad Seal - - - - -	0	5	0

No. 3.—TABLE of all the FEES which it shall be lawful for the SECRETARY to the LORD CHANCELLOR OF IRELAND, or any Clerk or other Person employed by such Secretary, to demand or accept for or on account of any Act, Matter, or Thing done in or concerning the Business of the said Office.

	£	s.	d.
For the Patent of an Archbishop, Duke, Marquis, or Earl	5	6	0
For the Patent of a Viscount or Baron - - -	4	5	0
For the Patent of a Bishop, Chancellor, Chief Justice -	3	4	0
For the Patent of a Baronet, Dean, or Judge - - -	2	2	6
For each Name or Denomination in a Fiat -	0	8	8
For a Warrant for a Custos Rotulorum - - -	4	12	0
For a Warrant for a Justice of the Peace - - -	2	2	6
For a Warrant for a Writ of Ease - - -	1	12	4
For a Warrant for a Master Extraordinary - -	2	2	6
For a Warrant for a Sheriff - - - -	0	12	6
For a Warrant for a Writ De excommunicato capiendo; for a Writ of Ad quod damnum; for a Commission of Delegates; for a Commission of Lunacy; for electing a Coroner; to exonerate a Coroner; each - -	0	12	6
For every other Warrant to the Hanaper - -	0	12	6
For a Fiat on a Significavit - - - -	0	12	6
For a Letter Missive - - - - -	0	18	6
For every Writ of Error - - - -	0	3	8
The Fees to be exclusive of any charged for the Lord Chancellor's Trainbearer.			

No. 4.—TABLE of all the FEES which it shall be lawful for the PURSEBEARER to the LORD CHANCELLOR OF IRELAND, or any Person for him, to demand or accept in right or under colour of the said Office of Pursebearer.

	£	*s.*	*d.*
For every Denomination in each Patent - -	*0*	*4*	*2*
For every Sheriff's Patent - - - -	*0*	*3*	*3*
For every Commission of a Justice of the Peace -	*0*	*18*	*6*
For every Commission of Rebellion - - -	*0*	*4*	*2*
For every Writ De excommunicato capiendo dedimus, to swear a Master Extraordinary, Commission of Delegates, and each close-sealed Writ - - - -	*0*	*2*	*1*
For every private Seal - - - - -	*0*	*0*	*2*
For every Commission of Bankrupt - - -	*0*	*4*	*2*
For every Supersedeas to a Commission of Bankrupt -	*0*	*4*	*2*

No. 5.—TABLE of all the FEES which it shall be lawful for the TRAINBEARER of the LORD CHANCELLOR OF IRELAND, or any Person for him, to demand or accept in right of the same Office of Trainbearer.

	£	*s.*	*d.*
For an Order of Guardianship - - - -	*0*	*8*	*4*
For every Justice of the Peace - - - -	*0*	*4*	*8*
For every Sheriff's Patent - - - -	*0*	*4*	*8*
For every single Patent of Honour - - -	*1*	*17*	*0*
For every Broad Seal - - - -	*0*	*1*	*10*
And for each and every Grant contained in every Broad Seal - - - - -	*0*	*1*	*10*
For every Writ of Error - - - -	*0*	*2*	*4*
For every Commission of Bankrupt - - -	*0*	*1*	*0*
For every Counsel sworn and admitted to the Bar -	*0*	*5*	*0*
For every Queen's Counsel sworn and admitted - -	*0*	*5*	*0*

No. 6.—TABLE of all the FEES which it shall be lawful for the CRIER of the COURT OF CHANCERY IN IRELAND, or any Person for him, to demand or accept in right of the said Office as Crier.

	£	*s.*	*d.*
For every Judge sworn, Prime Serjeant, Attorney and Solicitor General, Puisne Serjeant, and Queen's Counsel, each and every of them - - -	*2*	*2*	*0*
For every Counsel sworn and admitted to the Bar -	*2*	*0*	*5*
For swearing any Person before the Lord Chancellor, in any Employment - - - -	*2*	*2*	*0*
For every Decree or Dismiss obtained in the said Court -	*0*	*5*	*0*
For every Affidavit filed in the Usher's Office - -	*0*	*0*	*4*
For every Deponent in the Examiner's Office - -	*0*	*0*	*4*

No. 7.—TABLE of all the FEES which it shall be lawful for the LORD CHANCELLOR'S PORTER, or any Clerk or other Person employed by him, to demand or accept for or on account of any Act, Matter, or Thing done in or concerning the Business of his Office.

	£	s.	d.
For the Patent of Archbishop, Duke, Marquis, Earl, Viscount, Baron, Bishop, Chancellor, Chief Justice, Baronet, or Dean, for each single Denomination -	1	5	0
For a Patent for a Judge, Attorney General, Solicitor General, Master in Chancery, Serjeant at Law, or Assistant Barrister - - - - -	1	1	0
For every Sheriff's Patent - - - -	0	1	0
For every Faculty passing the Great Seal - -	0	2	6
For every Commission of the Peace - - - -	0	1	0
For every Commission of Bankrupt - - -	0	1	0
For every renewed Commission of Bankrupt - -	0	0	6
For every Writ of Error - - - -	0	1	0
For every Private Seal - - - - -	0	0	3

No. 8.—TABLE of FEES to be received and taken by the TIPSTAFFS of the COURT OF CHANCERY.

	£	s.	d.
For the swearing into Office of each Judge, Attorney General, Solicitor General, and Serjeant-at-Law -	0	10	6
For like, of each Master in Chancery - - -	0	5	0
For Admission of each Person as a Barrister - -	0	2	6

No. 9.—TABLE of all the FEES to be received and taken by the COURT KEEPER of the COURT OF CHANCERY.

	£	s.	d.
For the swearing into Office of each Judge, Attorney General, Solicitor General, and Serjeant-at-Law -	0	10	6
For like, of each Master in Chancery - - - -	0	5	0
For the Admission of each Person as a Barrister - -	0	5	0

Court of Chancery (Ireland) (Procedure).

A

BILL

To amend the Practice and Course of Proceeding in the High Court of Chancery in Ireland.

(*Prepared and brought in by*
Mr. Whiteside and Mr. Napier.)

Ordered, by the House of Commons, *to be Printed*,
4 *February* 1856.

[Bill 12.]

Under 9 *oz.*

4 *February* 1856. 19 Vict.

(Ireland.)

A

B I L L

TO

Alter the Law and Practice of the High Court of Chancery in Ireland in relation to the Appointment of Receivers and the Management of Estates under the Control of the said Court.

Preamble.

11 & 12 G.3. c. 10.

WHEREAS by an Act passed in the Eleventh and Twelfth Years of the Reign of His Majesty King George the Third, intituled "An Act for rendering Securities by "Mortgage more effectual," Courts of Equity in Ireland were empowered to appoint Receivers for the Purpose of paying Arrears of Interest on Mortgages: And whereas heavy Costs and Expenses are incurred, and Loss and Injury to Incumbered Estates experienced, as well by the unnecessary Appointment of Receivers, as by Parties in Causes and Matters putting Persons in Nomination for such Appointment, and by Defects in the existing Practice in relation to the Management of Estates by Receivers: And whereas it is expedient to empower the Court to refuse Applications for the Appointment of Receivers in certain Cases, and to alter the Practice in relation to the Appointment of Receivers by the High Court of Chancery in Ireland, the Collection of Rents, and Management of Estates under the Control of the said Court, and the Duties in relation thereto heretofore performed by the Masters in Ordinary of the said Court, and to provide that all such Duties shall be performed by Officers appointed for that Purpose under the Authority of this Act: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

Repealed save as to pending Proceedings.

I. The said recited Act of the Eleventh and Twelfth Years of King George the Third, Chapter Ten, be and the same is hereby repealed: Provided, that nothing herein containad shall operate to affect, invalidate, or suspend any Proceeding pending under the Authority of the same at the Time of the passing of this Act, but such Proceedings shall continue in full Force as if the said recited Act had not been repealed.

Sale to be ordered at early Stage of Suit, so as to dispense with Receiver.

II. Whenever a Suit shall be pending in the said Court for the Sale of Lands or any Interest in Lands, the Court, without waiting for a general Account of Incumbrances, and in order to give adequate Relief to the Parties without placing the Estate under a Receiver, shall make an Order for such Sale at the earliest Stage of such Suit at which it shall be ascertained that such Sale would be ultimately directed.

No Receiver to be appointed in a Suit, where Remedy at Law, unless under special Circumstances.

III. It shall and may be lawful for the said Court in any Suit for the Sale of Lands to refuse any Application for the Appointment of a Receiver over the same where the Applicant from the Nature of the Incumbrance upon which his Demand may be grounded shall be entitled to obtain Possession of the said Premises, or to enforce Payment of the Rents thereof with the Aid of a Court of Common Law, unless where from the peculiar Circumstances of the Property to be sold or of the general Incumbrances thereon, or from any other special Case shown to the Satisfaction of the Court, it shall deem it expedient to grant such Application.

Receiver not to be appointed where less than One Year's Interest due, or Applicant not likely to derive Benefit from such Appoint-

IV. It shall and may be lawful for the said Court in any Suit for the Sale of Lands to refuse any Application for the Appointment of a Receiver over the Lands to be sold in the said Suit, where there shall be less than *One Year's* Interest due to such Applicant on foot of his Demand, or where (there being more than *One Year's* such Interest so due) it shall be shown to the Satisfaction of the Court that from the Priority of his Incumbrance there is no reasonable Prospect of his obtaining Payment from the Court of any Portion of the Rents to be received before a Sale can be had, and the Proceeds thereof distributed, unless it shall appear to the Court that any Waste is being committed on the Lands to be sold, or that the Rents thereof are in danger of being lost, or that the same are held by Lease, and the Interest therein is in danger of being evicted for Nonpayment of Rent, or that the Premises are an insufficient Security for Discharge of the Incumbrances thereon, or that there exists any other special Circumstance which may render such Appointment expedient or necessary.

ment, unless Danger of Loss, &c.

Receiver not to be appointed unless Property exceed 200*l.* per Annum, but Court may put Incumbrancer into possession to levy his Demand.

V. It shall be competent for the said Court in any Cause or Matter at its Discretion to refuse any Application for the Appointment of a Receiver over Lands at the Instance of an Incumbrancer where the Rental or Value of the Property over which it is sought to appoint such Receiver shall not exceed *Two hundred Pounds* per Annum, or to impose such Terms or Conditions on granting such Application as to the Court shall seem fit; and it shall and may be lawful for the said Court, if it shall so see fit, on such Application, instead of making an Order for the Appointment of a Receiver thereon in the ordinary Way, to make an Order for Liberty for such Applicant to enter upon the Possession of the said Lands or Premises, or into Receipt of the Rents thereof, or a competent Part thereof, for the Purpose of levying the Amount of his Demand, and to enjoy the same as if such Incumbrancer were a Mortgagee in possession, having the legal Estate vested in him: Provided nevertheless, that before such Order shall be made as last aforesaid, it shall be shown to the Court or Judge that the same will not operate unjustly to any other Incumbrancer whose Incumbrance shall be duly registered, and it shall be lawful for the Court or Judge, on such Application being made by a Puisne Incumbrancer, to make such Order for Possession as aforesaid in favour of any prior Incumbrancer who may intervene on such Application: Provided also, that such Person so obtaining such Order for Possession shall be subject to account in the said Cause or Matter, on Motion made on behalf of any Person interested in such Account, for such Profits as he may, or might without wilful Default, have received in like Manner as if a special Suit were instituted for that Purpose, upon the Result of which Account it shall be lawful for the Court to make and enforce such Order as it would have Jurisdiction to make in a Suit so specially instituted, that upon such Order for Possession or Entry being made, the said Incumbrancer shall obtain an Injunction from the Court to put him into actual Possession of the said Premises, or if the same be in possession of Tenants, to issue such Orders on the Tenants to pay him the Rents thereof, and otherwise have and be invested with such Powers of enforcing Payment of such Rents, as if he had been formally appointed Receiver by the said Court; provided that such Incumbrancer having so obtained such Possession or entered into such Receipt shall not be obliged to enter into any Security or Account for the Rents and Profits, save as aforesaid, or be allowed any Poundage on Rents received; and provided that such Incumbrancer having obtained such Possession, on an Application made bonâ fide and without fraudulent Collusion with the Owner of the Premises, shall not be disturbed in or deprived of such Possession or Receipt of Rents by any other Incumbrancer, whether prior or otherwise, so long as he shall keep down and discharge all Rent and such other Outgoings as by the Rules or Orders of the Court Receivers are bound to discharge, and shall pay such Annuity or Annuities as may be prior to his own Incumbrance, unless and until such Premises shall be sold in any Suit in the said Court, and an Order made by the Court upon him to surrender Possession of the said Premises to the Purchaser, whereupon his Right to such Possession or Receipt of Rents shall wholly cease and determine.

The existing Two junior Masters in Ordinary of the Court of Chancery to be Receiver Masters.

Power to appoint Successors on Death, &c. by Letters Patent.

The present Masters in Ordinary hereby appointed Receiver Masters not to require a Patent.

VI. The existing junior Two Masters in Ordinary of the said Court of Chancery shall be and they are hereby constituted and appointed Receiver Masters of the said Court, with Power severally to exercise such Jurisdiction and Authority as herein-after provided; and it shall be lawful for Her Majesty from Time to Time, when and as any Vacancy shall occur in the Office of either of the said Receiver Masters or of their respective Successors for the Time being by Death, Resignation, or Removal from Office, by Letters Patent under the Great Seal of Ireland to appoint a fit Person, being a Barrister of at least *Fifteen* Years Standing, to supply such Vacancy: Provided, that it shall not be necessary for either of the said Masters in Ordinary hereby constituted Receiver Masters to obtain Letters Patent for their said Appointments to such Office, but they shall be deemed capable of exercising such Office as if the same were held by Letters Patent under the Provisions of this Act; and every such Receiver Master hereby appointed and to be appointed under the Authority of this Act shall hold his Office during good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such Receiver Master from his Office upon an Address from both Houses of Parliament.

Oath to be taken by Receiver Masters.

VII. Every Receiver Master to be appointed in pursuance of this Act shall previous to his executing any of the Duties of his Office take the following Oath, which the Lord Chancellor for the Time being is hereby authorized and empowered to administer:

'I do solemnly and sincerely promise and swear, That I will
' duly and faithfully, and to the best of my Skill and Power,
' execute the Office of Receiver Master.

' So help me GOD.'

VIII. The

Receiver Masters to exercise exclusive Jurisdiction in the Appointment of Receivers, &c.

Subject to Appeal to Lord Chancellor.

VIII. The said Receiver Masters and their Successors from Time to Time shall exercise exclusive Jurisdiction in the Selection and Appointment of proper Persons to be appointed Receivers, in passing Receivers Accounts, and in the Control and Direction of such Receivers and of all Matters relating to the Management of Property by them, as well as in their Removal for Neglect or Misconduct and the Appointment of others in the Place of those so removed; and also in the Application of Funds in their Hands according to the Power heretofore vested in the Masters in Ordinary of said Court for that Purpose by the Law and Practice of the said Court, subject nevertheless to Appeal to the Lord Chancellor.

All Orders of Reference for Appointment of Receivers, &c. shall be made to such Receiver Masters.

IX. From and after *the Commencement of this Act* all Orders of Reference for the Appointment of Receivers, or which relate to such Office, or which relate to the Management and Letting of Estates under the Court, shall be made to such Receiver Masters, and the Duties now performed by the Masters in Ordinary in relation to Receivers, and the Management or Letting of Estates held under the Court and incidental to such Management and Letting, (not inconsistent with this Act,) shall be performed by such Receiver Masters or under their immediate Control and Directions, and such Receiver Masters are hereby fully authorized and empowered to perform all such Duties accordingly, subject, however, to the Right of Appeal to the Lord Chancellor as herein-after mentioned.

All Business relating to Receiver and Management of Estates in the foregoing Section mentioned to be transferred to Office of Receiver Masters.

X. All Business of the Nature and Description in the foregoing Section mentioned, depending in or attached to the Offices of the respective Masters in Ordinary, shall from and after the *Commencement of this Act* be transferred to the Office of the Receiver Masters, who shall from thenceforth pass Accounts and perform all other Duties in relation to such Business heretofore performed by such respective Masters in Ordinary with the like Powers and Authorities in all respects as fully and effectually as the same are now exercised by the said Masters in Ordinary, but subject to the Alterations and Amendments in the Practice herein contained or to be contained in any General Orders to be for that Purpose made under the Authority of this Act.

On Occurrence of First Vacancy in the Office of Receiver Master, it shall not be filled up unless the Lord Chan-

XI. Upon the Occurrence of the First Vacancy in the Office of such Receiver Masters, the Situation of such Second Master shall not be filled up unless the Lord Chancellor shall certify under his Hand to the Commissioners of Her Majesty's Treasury that the State of Business in such Office requires the Appointment of such Second Master, in which Case it shall be competent to Her Majesty on a like Certificate from Time to Time to appoint such Second Master; but cellor shall certify that it is necessary to do so.

nothing in this Act contained shall deprive Her Majesty of the Power of appointing, from Time to Time, as the Office may become vacant, One Receiver Master, who shall in such Case be called the Receiver Master.

Annual Salary to the present Receiver Masters.

XII. From and after *the Commencement of this Act* there shall continue to be paid and payable to each of the said Two Masters in Ordinary of the said Court hereby constituted Receiver Masters, so long as they shall respectively hold such Office, and in lieu of the Salary heretofore paid to them as Masters in Ordinary, the full Amount of the annual Salary now payable to them respectively as such Masters in Ordinary, and the same shall be charged and chargeable upon the same Fund, and be paid and payable upon the same quarterly Days of Payment as the yearly Salary now payable to them as Masters in Ordinary is made chargeable and payable, the First Payment thereof to be made on the first of the said quarterly Days which shall next follow the *Commencement of this Act;* and there shall be paid and payable to every succeeding Receiver Master for the Time being so long as he shall hold such Office, out of such Funds as may be provided by Parliament, the annual Sum of *Two thousand five hundred Pounds* Sterling, and every such annual Sum shall from Time to Time be payable and paid quarterly, free and clear from all Taxes and Deductions whatsoever (Income Tax excepted), on every Twenty-fifth Day of March, Twenty-fourth Day of June, Twenty-ninth Day of September, and Twenty-fifth Day of December in every Year.

Salary to future Receiver Masters.

Proportion of Salary to be paid on Death or Resignation of Receiver Master.

XIII. Whenever any Person who shall hold the Office of Receiver Master shall during the Course of any Quarter resign or quit his said Office, or shall die, then the Person so resigning or quitting, or the Executors or Administrators of such Person so dying, (as the Case may be,) shall be entitled to such proportionate Part of such Salary as shall have accrued during such Part of the said Quarter as such Person shall have exercised the said Office, and every Receiver Master to be hereafter appointed shall, on the Quarter Day next after his Appointment, be entitled to receive out of the said Funds such Proportion of such Salary as shall have arisen from the Date of the Letters Patent of his Appointment.

Allowance to retired Receiver Masters.

XIV. It shall be lawful for Her Majesty by any Letters Patent under the Great Seal of the United Kingdom to give and grant unto any Person executing the Office of Receiver Master, in pursuance of this Act, an Annuity not exceeding *Two thousand Pounds* Sterling, to commence and take effect immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said

Office of Receiver Master, and to continue from thenceforth during the Life of the Person to whom the same shall be granted; and such Annuity shall be payable out of such Funds as may be provided by Parliament, and shall be paid quarterly, free from all Taxes and Deductions whatsoever (save and except Income Tax), on the Four usual Days of Payment in the Year; that is to say, the Fifth Day of January, the Fifth Day of April, the Fifth Day of July, and the Tenth Day of October in every Year, by equal Portions; and the First quarterly Payment, or a proportionate Part thereof to be computed from the Time of the Resignation of the said Office, shall be made on such of the same Days as shall next happen after the Resignation of the said Office; and the Executors or Administrators of the Person to whom the same Annuity shall be granted as aforesaid shall be paid such proportionate Part of the said Annuity as shall accrue from the Commencement or the last quarterly Payment thereof, as the Case may be, to the Day of his Death: Provided always, that it shall be lawful for Her Majesty, in and by such Letters Patent, to limit the Duration of Payment of such Annuity or any Part thereof to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall together not exceed in the whole the said Sum of *Two thousand Pounds* Sterling: Provided also, that no Annuity granted to any Person having executed the Office of Receiver Master under this Act shall be valid unless such Person shall have continued in the said Office for the Period of *Fifteen* Years, or shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, and which shall be distinctly recited in the said Grant.

Establishment of Receiver Masters Office.

XV. The Establishment of the said Receiver Masters Office shall consist of Two Chief Clerks and Two Junior Clerks, who shall respectively hold their respective Offices during good Behaviour, and so long as they shall personally give their Attendance upon their respective Duties, and shall conduct themselves diligently and faithfully in the due Execution of the Duties of the said Office, and such Clerks shall not be removed except by the Order of the Lord Chancellor, who is hereby empowered by Order made by him to remove any such Clerk for some sufficient Cause to be stated in such Order; and such a Number of Scrivenery Clerks as the Service of such Office shall require.

Examiners and Clerks in the junior Two Masters Offices to be Clerks in

XVI. The Examiners now attached to the Offices of the said junior Two Masters hereby appointed Receiver Masters as aforesaid shall be and become and are hereby appointed Chief Clerks in the Office of said Receiver Masters and their Successors in Office, and the Assistant Clerks the Receiver Masters Office.

Clerks now attached to the Office of each of the said Masters shall be and become and are hereby appointed Junior Clerks in the Office of the said Receiver Masters and their Successors in Office.

Appointment of Successors to Chief and Junior Clerks.

XVII. When and so often as any Vacancy shall occur by the Death, Resignation, or otherwise of either of the Chief Clerks hereby appointed, or of any Chief Clerk hereafter to be appointed, pursuant to the Provisions of this Act, such Vacancy shall be filled by the Appointment of One of the Junior Clerks in the said Office who shall be next in Seniority and to whom no sufficient Objection to the Satisfaction of the Lord Chancellor shall be made, and in all future Vacancies in the Office of Junior Clerk the said Receiver Masters shall alternately appoint some proper Person to be such Junior Clerk.

Solicitors appointed to any Office under this Act to be struck off the Roll.

XVIII. Every Solicitor or Attorney who shall be appointed to and shall accept any Office under this Act shall cease to be an Attorney or Solicitor, and shall forthwith procure himself to be struck off the Roll of Solicitors of the High Court of Chancery, and off the Roll of any of Her Majesty's Courts of Record in Ireland on which his Name may be.

Salaries of Chief and Junior Clerks.

XIX. The Salaries of the said Chief Clerks shall be the yearly Sum of *Eight hundred Pounds* Sterling each, and the Salaries of such Junior Clerks shall be the yearly Sum of *Three hundred Pounds* Sterling each, and such Salaries shall be paid out of such Funds as may be provided by Parliament, and shall be paid and payable in such Manner and on such and the same quarterly Days, and subject to such Regulations as to proportionable Parts at the Commencement and the Termination thereof, as is herein-before provided in respect to the Payment of the Salaries of the Receiver Masters herein-before provided.

Pensions to Chief and Junior Clerks.

XX. All and every the said several Clerks hereby appointed and to be from Time to Time appointed under the Authority of this Act, who shall hereafter resign his Office with the Sanction and under the Authority of the Lord Chancellor, or shall be removed therefrom by the Lord Chancellor in consequence of his being permanently incapable from Infirmity of Mind or Body to discharge the Duties thereof, shall be entitled to receive such Superannuation Allowance as the Commissioners of Her Majesty's Treasury shall think proper to direct, and in ascertaining and awarding the Amount of such Superannuation Allowance the said Commissioners shall take into consideration the whole Period during which any such Person shall have been permanently employed in the said Office, and shall proceed according to the Principle laid down by an Act passed in the Fifth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act to "alter, amend, and consolidate the Laws for regulating the Pensions, "Compensations, and Allowances to be made to Persons in respect "of their having held Civil Offices in His Majesty's Service," and all such Sums and Allowances which shall be so awarded and granted under the Authority aforesaid shall be paid and payable and charged and chargeable in the same Way as is herein-before provided in respect of the Salaries of the said several Clerks: Provided always, that nothing herein contained shall prejudice the Right of the Examiners of the said Masters in Ordinary of the said Court hereby appointed Receiver Masters, and which Examiners are hereby appointed Chief Clerks in the said Receiver Master's Office, to retire from the respective Offices to which they are appointed by this Act after the Period of Service and upon the other Terms contained in an Act passed in the Fifteenth Year of Her present Majesty's Reign, intituled "An Act to regulate the Proceedings in the High Court of Chancery "in Ireland."

Chief and Junior Clerks empowered to take Affidavits, &c.

XXI. From and after *the Commencement of* this Act it shall and may be lawful for the said several Chief Clerks and Junior Clerks respectively, and all other Persons who may be hereafter appointed Chief Clerks and Junior Clerks to the said Receiver Masters, or to any future Receiver Masters or Receiver Master, while they shall respectively continue to hold their respective Offices, and they are hereby fully authorized, empowered, and directed, to administer Oaths, and to take Affirmations, Declarations, or Attestations of Honour, Examinations, or other Matters whatever to be put in on Oath in their said respective Offices, or in the Offices of the said respective Masters; and all Persons swearing, declaring, affirming, or attesting before any of such Persons so by this Act authorized to administer Oaths and take Declarations, Affirmations, or Attestations of Honour, shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing, declaring, affirming, or attesting contained therein as if the same had been sworn, declared, affirmed, or attested before any Person now by Law authorized to administer Oaths, and to take Declarations and receive Affirmations.

Writing Clerks to be employed.

XXII. There shall be employed in the said Office a sufficient Number of Writing Clerks to make Copies of all Documents required from the said Office, and such Writing Clerks shall be paid at the Rate of *One Penny Halfpenny* per Folio of Seventy-two Words for all Copies made by them respectively.

Additional Clerks to be appointed if

XXIII. If it shall hereafter appear to the Lord Chancellor that the Business of the said Office cannot be discharged with due De-necessary for the due Despatch of Business.

spatch without the Assistance of an additional Clerk or Clerks, then and in such Case it shall be lawful for the Lord Chancellor to direct that One or more additional Clerk or Clerks shall be appointed; and such Clerk or Clerks shall be appointed accordingly by the said Receiver Masters, or One of them, and shall be paid such annual Salary or Salaries as the Commissioners of Her Majesty's Treasury shall direct, and in the Manner and at the Times herein-before appointed for Payment of the Salaries of the said Clerks hereby appointed, and shall hold Office for the same Term and subject to the like Regulations as the other Clerks hereby appointed.

Receiver Masters shall keep Books in their Office with proper Indexes, containing Record of Causes and Matters in which Receivers appointed, &c.

XXIV. The Receiver Masters shall keep or cause to be kept in the said Office, in proper Books, with proper and sufficient Indexes thereto, in such Form as shall be approved of by the Lord Chancellor, a Record of the Name of every Cause and Matter in which a Receiver shall be appointed, with the Date of his Appointment and the respective Periods of his accounting, also the Address of every such Receiver, and the Name of the Post Town nearest thereto, so as to be enabled to communicate with him by Letter when necessary, also the Name of every Defendant, Respondent, or other Person over whose immediate Interest or Estate in any Lands, Tenements, or Premises a Receiver shall be appointed in any Cause or Matter, also the Date of the Discharge of every Receiver who shall be removed from off any Lands, Tenements, or Premises over which he had been Receiver; and all such Books shall be open to the Inspection of all Parties, and their Solicitors and Agents, during the usual Office Hours.

A Copy of the Order for the Appointment of every Receiver to be lodged in the Receiver Master's Office.

XXV. When any Order for the Appointment of a Receiver has been made in any Cause or Matter depending in the said Court, a Copy thereof shall be lodged in the Receiver Master's Office by the Party having the Carriage thereof, together with a Statement setting forth the exact local Situation of the Property over which the Receiver is to be appointed, the Name of the Person or Persons in possession or receipt of the Rents thereof, and over whose Estate or Interest the Receiver is to be appointed, and the Amount of the gross annual Rental thereof, as nearly as can be ascertained; and thereupon, or so soon after as may be convenient, a Notice shall issue for the Appointment of the Receiver, which shall be served upon all necessary Parties, subject to the Control or Direction of the Receiver Master, for such Time as shall be limited or directed by any General Order for that Purpose to be made in pursuance of the Powers herein-after contained.

A List to be made of Persons fit and

XXVI. A List shall be made, under the Direction of the Receiver Masters, of Persons who shall be, or who may have been, acting as

Receivers

proper to discharge the Duties of Receiver.

Receivers under the said Court, with the Approbation of the Masters, and also of such other Persons as the said Masters may deem fit and proper for the Discharge of such Duties, which List shall be classified by Counties and Districts so far as same can be done; and such List may be added to or altered by the said Masters from Time to Time by inserting additional Names or omitting Names therefrom as they shall deem right and expedient.

Mode of selecting Receivers.

XXVII. When a Receiver is to be appointed in any Neighbourhood where there is not an existing Receiver under the Court, the Receiver Master before whom such Appointment is to take place shall select such Person as shall appear to him the most eligible, a Land Agent by Profession to have a Preference if eligible in all other respects, but no practising Barrister, Solicitor, or Attorney shall be appointed to such Office of Receiver unless for some special Reasons, to be set forth in the Order appointing him; and where there is an existing Receiver under the said Court, or a Person who has theretofore filled that Office, in the Neighbourhood of Lands over which a Receiver has been directed to be appointed, such Receiver, provided he has conducted himself in all respects to the Satisfaction of the Receiver Master, is to be entitled to a Preference in such Appointment, in case it shall appear upon Communication made to him for that Purpose from the Office of the Chief Clerk that he shall be willing to accept of such Receivership and give the requisite Security; and in estimating the Qualifications of any existing or previously employed Receiver to a Preference in any new Appointment to be made as aforesaid the Regularity of his accounting, and his general Obedience to and Compliance with the Rules of the Court, shall be taken into Consideration, as well as his Intelligence, Knowledge of Business, and general Competency and Conduct in the Management of the Tenants and Lands over which he has been already appointed.

When any Person approved of as Receiver, he shall receive an Intimation thereof from the Receiver Master's Office.

XXVIII. When any Person shall be approved of as Receiver, he shall receive directly from the Receiver Master's Office an Intimation by Letter that he has been so approved of, and also informing him of the Time within which he will be required to enter into Security, and he shall also receive direct from the said Office (free of Expense) a Copy of certain General Rules and Orders herein-after provided for; and in case such Receiver shall not enter into Security within the Time so intimated, or such further Time as may under special Circumstances be given, he shall be discharged from such Receivership, and another Receiver shall be appointed in his Place.

Receivers to account once in every Year.

XXIX. Every Receiver heretofore appointed or to be hereafter appointed under the Authority of this Act, so long as he shall continue Receiver in any Cause or Matter, shall once in every Year at the least, and oftener if so required, whether the Cause or Matter be abated or not, pass an Account before One of the Receiver Masters, unless the Master before whom he should so account shall for any special Reasons permit the Accounts in such Cause or Matter to be passed at a greater Interval of Time.

Receiver not accounting within a Year to be called to account for his Default.

XXX. If any Receiver shall not have accounted within *a Year* from the Date of his Appointment or his previous Account, it shall be the Duty of the Receiver Master before whom he should have so accounted, or One of the Clerks before mentioned, without any Intimation or Request from any of the Parties in the Case, to call upon such Receiver by Letter to account for his Default; and in Case such Receiver shall not satisfactorily account for such Default, the Receiver Master shall be at liberty to disallow him his Poundage or any Portion of it he shall think proper, and also the Costs of passing his Account.

Receiver not accounting when called upon to be proceeded against by the general Solicitor of the Court.

XXXI. If any Receiver shall not, after having been called upon as aforesaid, pass his Account within a reasonable Time, the Receiver Master shall be at liberty to instruct the general Solicitor of the Court to proceed by Attachment for Contempt against such defaulting Receiver, and shall also be at liberty to remove him from his Receivership and appoint another Receiver in his Place, the Costs of such Proceedings to be paid by such defaulting Receiver, and in case of his Inability to pay the same, to be borne by the Funds in the Cause or Matter; provided, however, that no Proceedings shall be taken in any Case by the general Solicitor of the Court where the Parties or any of them are willing to carry on such Proceedings.

Receivers to pay or apply Balances as directed.

XXXII. The Balance appearing due by any Receiver on passing his Account shall be by such Receiver paid into Court or applied as the Receiver Master before whom the same shall have been passed shall certify and direct, having regard to any Order made for Payment of the same.

Receivers not applying Balances as directed to be removed.

XXXIII. Any Receiver who shall neglect paying or applying his Balance as the Receiver Master may direct, within the Time for that Purpose specified, shall be liable to be removed from such Receivership by Order of the Receiver Master or the Court, upon or without any Application for that Purpose, and another Receiver shall be thereupon appointed in his Place.

A Diary to be kept in Receiver Master's Office.

XXXIV. A Diary shall be kept in the Office of the Receiver Master, showing the Days on which the several Receivers are bound to account or to pay Money, or do any other Act in pursuance of the General Orders of the Court or the special Orders of the said Master; and it shall be the Duty of the Chief Clerks of the said Office to call upon the several Receivers to show Cause to the said Master for any Neglect or Omission in relation to such Matters as may occur in relation to the same; and it shall be lawful for the Master to make such Order upon the said Receiver in relation to such Matters, whether upon or without any Application for such Purpose, as he may deem just and expedient.

XXXV. Any Tenant to any Lands or Premises under the Jurisdiction of the said Court who shall permit One whole Year's Rent to accrue due in respect of such Lands or Premises, shall be liable, without any special Order or Direction for the Purpose, to be proceeded against by the Receiver appointed over such Lands or Tenements, and evicted from the Possession thereof; and it shall be the Duty of the Receiver in any Cause or Matter where he shall consider such Course to be beneficial to the Parties, (but not otherwise,) to take Proceedings for such Purpose.

Power to Receivers to proceed to evict Tenants owing One Year's Rent without any Authority from Receiver Master.

XXXVI. No special Order, Direction, or Permission of the Court or Receiver Master shall be necessary to authorize a Receiver to distrain the Goods and Chattels of any Tenant who shall permit any Rent to be in arrear for *One Month* after the Gale Day whereon the same became due and payable, but every Receiver shall be at liberty if he shall deem it expedient so to do to proceed by Distress or by Action by Civil Bill or otherwise for Recovery of such Rent, any Order or Practice of the Court to the contrary notwithstanding.

No special Permission requisite to distrain Tenants in arrear for One Month.

XXXVII. The Receiver Master shall have full Power and Authority to remit any Arrear of Rent or Portion of such Arrear which it shall appear to him expedient and for the Benefit of the Parties under special Circumstances so to do, and shall also have Power and Authority from Time to Time to order and direct the Application by the Receiver in any Cause or Matter of such Sum and Sums of Money as shall appear necessary for keeping and maintaining all Fences, Buildings, and Improvements on any Lands, Tenements, or Premises under the Control of the Court in full and perfect Order and Condition.

Power to Receiver Masters to remit Arrears of Rent; also to order the Application of Sums to keep Premises, &c. in repair.

XXXVIII. The present Course of letting Lands for a Term of Seven Years pending a Cause or Matter shall be discontinued; and in lieu thereof the Receiver Masters shall be at liberty when any Lands, Tenements, or Premises are to be let in any Cause, or Cause Petition, Matter, or any other Matter (save Matters of Lunacy and Minority), to determine for what Term of Years (not exceeding *Twenty-one*

Power to Receiver Masters to let Lands, &c. for any Term not exceeding Twenty-one Years.

Years) such Lands, Tenements, or Premises shall be let, and shall let the same and execute a Lease or Leases thereof for such Term accordingly; and all such Lettings so had shall be good and valid at Law and in Equity for such Term, notwithstanding the Termination of the Cause or Sale of the Lands, Tenements, or Premises, as if such Letting had been made by the Person having the Title or legal Power to demise the same; subject, nevertheless, to all Remedies in force in case of Nonpayment of Rent or Nonperformance of the Covenants by the Lessees therein.

Tenants Leases to be prepared for Execution in the Office of the Receiver Masters.

XXXIX. All Tenants Leases for Lands let under the said Court, and Recognizances to be entered into by Tenants and their Sureties when the same shall be necessary, shall be prepared for Execution in the Office of the Receiver Masters in the same Manner as they have been heretofore prepared in the Offices of the Masters in Ordinary of the said Court; but no Fee shall be received or taken for the same, nor any Charge made in respect thereof save only for the necessary Stamp Duty to which such Leases or Recognizances shall be liable.

Receivers Recognizance how to be taken and registered.

XL. The Recognizance to be entered into by every Receiver and his Sureties shall be in such Form as the Lord Chancellor with the Advice and Assistance of the said Receiver Masters shall direct, and may be taken before the said Receiver Masters, or before a Master Extraordinary of the said Court, or One of the Extraordinary Commissioners of the said Court in Great Britain, and shall when executed be duly enrolled and registered, according to the present Practice of the said Court of Chancery, and shall be duly registered in the Office for registering Deeds in Ireland in like Manner as Judgments are now by Law registered therein.

Order on Tenants to pay their Rents to Receiver.

XLI. The Receiver so appointed shall, upon his Recognizance being so executed and registered as aforesaid, lodge the Certificate of Registry thereof in the Office of the Receiver Master, who shall thereupon make an Order that the Tenants of the Lands over which such Receiver has been appointed shall thenceforth pay all Rent and Arrears of Rent to such Receiver until the further Order of the Court, and the several Tenants of such Lands and Premises shall be bound to obey such Order upon being served therewith, and shall be punishable as in Cases of Contempt of Court for Noncompliance therewith.

Vacating Receiver's Recognizance.

XLII. Upon the Death, Removal, or Discharge of any Receiver and the passing of his Account and Payment of any Balance which may be in his Hands, the Receiver Masters or One of them shall be at liberty to make an Order that the Recognizance entered into by any such Receiver be vacated and discharged, and upon Production thereof the Clerk of Recognizances shall enter a Vacate thereon, and the Registrar of Judgments and Registrar of Deeds respectively shall enter Satisfaction at the Foot of the original Registry thereof, and the same shall thenceforth be null and void to all Intents and Purposes.

Recognizances for the Performance of Decrees, &c.

XLIII. All other Recognizances in the said Court for the Performance of Decrees or Orders or otherwise shall be in such Form as the Lord Chancellor, with the Advice and Assistance aforesaid, shall by any General Order direct and appoint, and the same shall be enrolled and registered in the Manner herein prescribed with respect to the Recognizance of a Receiver, and shall be vacated or satisfied in like Manner upon the Order of the Master of the Rolls or One of the Vice Chancellors, or the Court.

Proceedings by Scire facias on Foot of Recognizances abolished.

XLIV. Proceedings by Scire facias in the Petit Bag Side of the said Court on Foot of any Recognizance entered into in the said Court shall be and the same are hereby abolished; and from and after the *passing of this Act* it shall and may be lawful for the said Court, or any Judge thereof, to order that the Persons liable upon Foot of any such Recognizance, or any of them, shall pay into Court the Sum due on Foot thereof, unless good Cause shall be shown to the contrary; and if no Cause shall be shown, or that the Cause shown shall be disallowed, then the said Order shall be made absolute, and such absolute Order shall have the Operation and Effect of a Judgment on a Scire facias or a Recognizance, and the Court thereupon may order an Attachment for Disobedience of the said Order, or the usual Process may be issued against the Body, Goods, or Lands of the Person or Persons who shall be ordered to pay such Sum as aforesaid, in like Manner as the same might be heretofore sued out upon such a Judgment; and it shall be lawful for such Judge or the Court upon any Motion to show Cause against such Order, or to make the same absolute, as well to entertain all Matters which have been heretofore admissible upon a Motion to put a Recognizance in Suit as all Matters which could be set up by way of Defence on the Merits to a Scire facias on a Recognizance, and also to make or direct any Inquiry which the Court or Judge may deem necessary before making such Order absolute: Provided, that nothing herein contained shall operate to affect the Jurisdiction and general Control heretofore exercised over Proceedings on Recognizances against Persons to be charged in relation to the same.

Lord Chancellor, with Advice, &c.

XLV. It shall be lawful for the Lord Chancellor, with the Advice and Assistance of the said Receiver Masters, and they are hereby

required,

of Receiver Masters to make Rules and Orders for regulating Mode of Procedure.

required, forthwith to make and issue General Rules and Orders for regulating the Times and Form and Mode of Procedure before the said Receiver Masters respectively and their respective Chief Clerks, and generally the Practice in respect to the Matters to which this Act relates, and such Rules and Regulations may from Time to Time be rescinded, altered, varied, or added to by the like Authority, and all such Rules and Regulations as aforesaid shall take effect as General Orders of the said Court.

Receivers to be at liberty to communicate with Receiver Masters by Letter on any peculiar Exigency.

XLVI. If any Receiver shall require the Advice of the Receiver Master in relation to any peculiar Exigency, he shall not file any Statement of Facts, but shall be at liberty to communicate by Letter with the Officer of the Receiver Master upon his own Responsibility as to the Truth of the Facts contained in such Communication; whereupon it shall and may be lawful for such Receiver Master through the Chief Clerk to convey Advice and Direction by written Answer to such Receiver, if the said Master shall consider the Case one calling for his special Direction.

Receiver Masters to prepare and submit to Lord Chancellor a Code of Regulations for Government of Receivers, &c.

XLVII. Whereas it frequently occurs that Persons who are for the First Time appointed Receivers under the Court of Chancery experience considerable Difficulty in the Discharge of their Duties from being unacquainted with the Rules and Regulations of the Court, and their own Duties, Powers, and Responsibilities as such Receivers, and from the Want of any authorized Standard whereby to acquire such Knowledge and regulate their Conduct and Proceedings: And whereas the Practice of Receivers filing Statements of Facts leads to much unnecessary Delay and Expense: Be it therefore enacted, That the said Receiver Masters shall forthwith prepare and submit to the Lord Chancellor for his Approbation a general Code of Rules and Regulations for the Guidance and Instruction of Receivers and the Regulation of their Conduct in all Matters relative to their Management of Estates, so far as can be anticipated, relating to such Duties of Receiver under the Court of Chancery; and such Rules when approved of by the Lord Chancellor shall take effect as General Orders, and shall be printed at the Expense of the said Receiver Master's Office, and a Copy thereof shall be furnished to every Receiver on his Appointment as Receiver for the First Time, either by delivering same to him if in Town or by transmittiug the same to his Residence if in the Country by Post.

Rules may be altered or varied.

XLVIII. All such Rules and Regulations may from Time to Time be rescinded, altered, varied, or added to by new or amended Rules, to be from Time to Time made in like Manner and by the like Authority, and all such amended or additional Rules as shall from Time to Time be made shall with all convenient Speed, after being approved of by the Lord Chancellor, be printed and distributed, by delivering or forwarding to every Receiver in manner aforesaid a Copy thereof, free of Expense, and such altered or amended Rules shall not take effect or come into operation for a Period of *One Month* at the least after the same shall have been so as aforesaid approved of by the Lord Chancellor.

Duties of Receivers shall be rendered conformable to Land Agents.

XLIX. In framing Regulations for Government of and Direction for Receivers, they shall be rendered as conformable to the Character of ordinary Land Agents, in the Duties, Discretion, and Responsibilities incident to such Agents in the Management of Estates, as may be consistent with a reasonable Control to be exercised by the Receiver Master.

Receivers Accounts when passed shall be retained in Receiver Masters Office, and bound up in Volumes with Indexes.

L. All Receivers Accounts, when passed and certified, shall be retained in the Office of the said Receiver Masters, and shall, at such Time or Times as may be for that Purpose specified in any General Order to be made for that Purpose, be bound up in One or more Volumes with proper Indexes, and to that end all Receivers Accounts shall be written on Post Paper bookwise with sufficient Margins.

Copies of Receivers Accounts, &c. to be furnished to Parties on Payment of Fourpence per Folio of 72 Words.

LI. Copies of all Receivers Accounts, Statements, or other Documents remaining of Record in the Receiver Masters Office shall be furnished to all Parties requiring them, on Payment of a Fee of *Fourpence* per Folio of Seventy-two Words; and all Parties requiring it shall be at liberty to take a Copy of any Portion or Portions of such Account or other Document as they may require, without being compelled to take out or pay for the entire Document.

Mode of Proceeding before Receiver Masters to be by Notice.

LII. The Mode of proceeding before the said Masters respectively shall be by Notice, to be subject to the same Rules and Regulations as to the Entry and Service thereof as heretofore applicable to the Entry and Service of Summonses, unless the same shall be altered by any General Rule to be made in pursuance of the Powers for that Purpose in this Act contained.

Reports for letting of Lands, &c. to be discontinued; no Report to be made by Receiver Masters, except in certain Cases.

LIII. The Practice heretofore existing in the Offices of the respective Masters of making Reports to authorize the setting of Lands and Management of Estates by Receivers under the Court, shall be discontinued, and no Report shall be made by the said Receiver Masters except in Cases where the Lord Chancellor shall specially refer any Matter to the Receiver Masters or either of them to be reported upon, and in place and stead of such Reports hereby directed to be discontinued the said Receiver Masters shall in all Cases have

Power and Authority to make Orders, and all Orders made by the Receiver Masters or either of them shall have the Force and Effect of Orders of the Court of Chancery or any Judge thereof, and be enforced in like Manner, and all Persons neglecting or refusing to obey them shall be subject to the same Penalties and Punishments as is provided for Disobedience to or neglect of Orders of the said Court.

Orders made by Receiver Masters to be drawn up in their Office.

LIV. All Orders made by the Receiver Masters shall be drawn up in a short Form, and signed by One of the Chief Clerks of such Masters, and shall be entered in Books to be kept in the said Office, with proper and sufficient Indexes, and Copies thereof, properly authenticated or attested, shall be issued from the said Office, subject to such Regulations as shall be settled and provided by any General Orders to be made in pursuance of the Powers in that Behalf contained in this Act.

Receiver Masters to make certain annual Returns.
4 & 5 W. 4. c. 78. s. 16.

LV. The said Receiver Masters shall within the First *Four* Days of Michaelmas Term in each and every Year transmit or cause to be transmitted to the Office of the Chief Secretary of the Lord Lieutenant of Ireland a Return showing the gross Number of Causes, Petitions, and Matters of every Description depending in the said Court of Chancery in which there shall be existing Receiverships, and the Number of Causes, Petitions, and Matters in which Receivers shall have been discharged during the *Twelve* Months next preceding such Return, and the Number of new Appointments which shall have taken place during the same Period; and each of the said Masters shall annex to such Return a Report in Writing under the Hand of such Master, stating the Days on which he shall have attended at his Office during such Period in the Performance of his Duty, and the Number of Hours occupied in each of such Days Attendance.

Construction of Terms in Act.

LVI. In the Construction of this Act the Expression "Her Majesty" shall mean the Sovereign for the Time being; the Expression "Lord Chancellor" shall mean also and include the Lord Chancellor, Lord Keeper, and Lords Commissioners for the Custody of the Great Seal of Ireland for the Time being; and the Expression "Receiver" shall mean also and include Receivers, Sequestrators, and Guardians of the Fortunes of Minors in Matters of Minority.

Power and Authority to make Orders, and all Orders made by the Receiver Masters or either of them shall have the Force and Effect of Orders of the Court of Chancery or any Judge thereof, and be enforced in like Manner, and all Persons neglecting or refusing to obey them shall be subject to the same Penalties and Punishments as is provided for Disobedience to or neglect of Orders of the said Court.

Orders made by Receiver Masters to be drawn up in their Office.

LIV. All Orders made by the Receiver Masters shall be drawn up in a short Form, and signed by One of the Chief Clerks of such Masters, and shall be entered in Books to be kept in the said Office, with proper and sufficient Indexes, and Copies thereof, properly authenticated or attested, shall be issued from the said Office, subject to such Regulations as shall be settled and provided by any General Orders to be made in pursuance of the Powers in that Behalf contained in this Act.

Receiver Masters to make certain annual Returns.
4 & 5 W. 4. c. 78. s. 16.

LV. The said Receiver Masters shall within the First *Four* Days of Michaelmas Term in each and every Year transmit or cause to be transmitted to the Office of the Chief Secretary of the Lord Lieutenant of Ireland a Return showing the gross Number of Causes, Petitions, and Matters of every Description depending in the said Court of Chancery in which there shall be existing Receiverships, and the Number of Causes, Petitions, and Matters in which Receivers shall have been discharged during the *Twelve* Months next preceding such Return, and the Number of new Appointments which shall have taken place during the same Period; and each of the said Masters shall annex to such Return a Report in Writing under the Hand of such Master, stating the Days on which he shall have attended at his Office during such Period in the Performance of his Duty, and the Number of Hours occupied in each of such Days Attendance.

Construction of Terms in Act.

LVI. In the Construction of this Act the Expression "Her Majesty" shall mean the Sovereign for the Time being; the Expression "Lord Chancellor" shall mean also and include the Lord Chancellor, Lord Keeper, and Lords Commissioners for the Custody of the Great Seal of Ireland for the Time being; and the Expression "Receiver" shall mean also and include Receivers, Sequestrators, and Guardians of the Fortunes of Minors in Matters of Minority.

Court of Chancery (Ireland (Receivers).

A

BILL

To alter the Law and Practice of the High Court of Chancery in Ireland in relation to the Appointment of Receivers, and the Management of Estates under the Control of the said Court.

(Prepared and brought in by
Mr. Whiteside and Mr. Napier.)

Ordered, by The House of Commons, *to be Printed,*
4 *February* 1856.

[Bill 13.]

Under 3 oz.

27 *June* 1856. 19 & 20 VICT.

A

BILL

TO

Amend the Law and Practice of the Court of Chancery in Ireland in relation to the Appointment of Receivers over Real Estate, and to expedite the Sale of Estates in the said Court.

Preamble.

WHEREAS the levying of Charges upon Real Estate through the Medium of Receivers appointed by the Court of Chancery in Ireland is productive of Injury and Inconvenience, and is often attended with Expense wholly disproportionate to any Benefits derived therefrom; and it is expedient to diminish the Necessity for appointing Receivers by giving to the Court increased Facilities for the Sale of Real Estate, and that the Court should in all Cases of Applications to appoint Receivers have a Discretion to refuse or postpone the Appointment as herein-after is provided: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Interpretation.

I. The Expression "the Court" when used in this Act shall mean "the Court of Chancery in Ireland," and shall include the Chancellor, Master of the Rolls, and each of the Masters in Ordinary acting within their respective Jurisdictions; "Suit" shall include "Cause," "Petition," and "Matter."

Court to have a Discretion in appointing Receivers.

II. When by the Law or Practice of the Court, or by any Act of Parliament, the Court is or shall be empowered to appoint a Receiver over Real Estate for Payment of any Charge thereon, the Court in exercising such Jurisdiction may have Regard to the Amount of the Charge and of the Rental of the Estate, and also to the other Remedies and Securities (if any) possessed by the Person entitled to the Charge, and to the other Circumstances of the Case; and if the Court shall be of opinion that the Appointment of a Receiver is unnecessary or inexpedient, or would not be productive of substantial Benefit to the Person entitled to the Charge, it shall be lawful for the Court to decline or postpone appointing a Receiver, and the Costs of any Application for the Appointment of a Receiver shall be in the Discretion of the Court.

Act not to extend to Tithes.

III. Nothing in this Act contained shall extend to affect the Jurisdiction of the Court to appoint Receivers for the Payment of Tithes or Tithe Rentcharge, but such Receivers shall be appointed by the Court as if this Act had not passed.

Repeal of 11 & 12 G. 3. c. 10. (I.)

IV. The Act of the Parliament of Ireland passed in the Eleventh and Twelfth Years of the Reign of His Majesty King George the Third, intituled "An Act for rendering Securities by Mortgage more "effectual," is hereby repealed, save as to any Proceeding in any Court of Justice instituted prior to the passing of this Act, and any such Proceeding may be continued and prosecuted as if this Act had not passed.

Real Estate may be sold at any Stage of Suit. 15 & 16 Vict. c. 86. s. 55.

V. It shall be lawful for the Court in any Suit pending or to be instituted therein in relation to any Real Estate, if it shall appear to the Court that it will be necessary or expedient that the said Real Estate, or any Part thereof, should be sold for the Purposes of such Suit, to direct the same to be sold at any Time after the institution of such Suit, and such Sale shall be as valid to all Intents and Purposes as if directed to be made by a Decree or decretal Order on the Hearing of such Suit, or at any other Stage of the Proceedings therein, and shall be carried out according to the Course and Practice of the Court, and according to such general Orders as may from Time to Time be made by the Court for regulating such Sales and securing the Title of the Purchasers thereunder; and any Party to the Suit in possession of such Estate, or in receipt of the Rents and Profits thereof, shall be compelled to deliver up such Possession or Receipt to the Purchaser or such other Person as the Court shall direct.

Court of Chancery (Ireland) (Receivers).

A

B I L L

To amend the Law and Practice of the Court of Chancery in Ireland in relation to the Appointment of Receivers over Real Estate, and to expedite the Sale of Estates in the said Court.

(*Prepared and brought in by*
Mr. Attorney General for Ireland and
Mr. Horsman.)

Ordered, by The House of Commons, *to be Printed,*
27 *June* 1856.

[Bill 209.]

Under 1 *oz.*

4 *February* 1856. 19 VICT.

(Ireland.)

A

BILL

FOR

Securing the Titles of Purchasers of Estates sold under the Court of Chancery in Ireland.

Preamble.

WHEREAS it is expedient to remove certain technical Difficulties in Suits for the Sale of Lands in Ireland under the Court of Chancery, and to render the Titles of Purchasers thereof secure and indefeasible: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Owner of Incumbered Estate may institute Suit for a Sale.
12 & 13 Vict. c. 77. s. 16.

I. Where any Incumbrance exists upon Land or an Interest in Land in Ireland, which from its Nature would entitle the Incumbrancer to obtain a Decree for a Sale thereof from the Court of Chancery in Ireland, it shall and may be lawful for the Owner of such Estate or Interest so subject to such Incumbrance to institute a Suit and obtain a Decree for the Sale thereof, or a competent Part thereof, for Payment of Incumbrances thereon, in which Suit the Court shall proceed and make such a Decree or Order for a Sale, and apply the Funds, the Produce of such Sale, in like manner as if such Suit had been instituted by such Incumbrancer.

Power of the Court to substitute Service extending to Publication of Advertisements.

II. Where any Person who, according to the existing Law and Practice of the Court of Chancery in Ireland, would be a necessary Party to a Suit for the Sale of any Estate or Interest in Land in Ireland, or to a Suit for Administration of the Assets of a deceased Person, or any other Suit in which such Sale would be ordered as incidental to the Relief prayed, and of which Suit such Person ought, according to such Practice, to have Notice, and where it shall appear to the said Court that such Person is out of the Jurisdiction thereof, or his or her Residence cannot be discovered on reasonable Inquiry made for that Purpose, it shall and may be lawful for such Court, having regard to the Delay, Expense, or Difficulty attendant on the ordinary Service of Process or Notice on such Person or incident to the Mode of Substitution thereof, which the Court has heretofore Power to direct, and upon being satisfied that the Petitioner is entitled to such Sale in lieu of such Service, to declare that the Publication of such Notice or Process by Advertisement thereof (whether with or without any further or other indirect Notification) shall be a sufficient Substitution for the Service of such Notice or Process in the ordinary and formal Way; and upon such Declaration and such Publication of such Advertisement, with or without such further Notification, as the Case may be, such Person being such Party shall be bound by the said Suit, and by all Decrees and Orders pronounced therein, and any Sale had thereunder, as if such Person had been within the Jurisdiction of the Court, and actually served with such Notice or Process in the ordinary Way.

Court to have Power to judge of the Reasonableness of Objection for Want of Parties.

III. It shall not be lawful for any Party to a Suit pending in the said Court for the Sale of any Estate or Interest in Land in Ireland, or to a Suit in which such Sale may be granted as incidental to the express Relief therein prayed as aforesaid, to make any Objection for Want of Parties as Matter of Right, but the Court shall have full Power and Discretion to dispense with such Parties to the Suit, upon the Plaintiff or Petitioner, or Person having the Carriage of such Proceedings, publishing such Advertisements or making such other indirect Notification to them of the Object of such Suit in such Manner as to the said Court may appear reasonable and expedient.

Opinion of Counsel to be taken on Title.

15 & 16 Vict. c. 86. s. 56.

General Orders, Court of Chancery, Ireland.

IV. When a Decree or Order for a Sale of any Estate or Interest in Land in Ireland shall be pronounced in any Suit pending in the said Court of Chancery, and before the same shall be put up for Sale, the Plaintiff, Petitioner, or other Person having the Carriage of such Procedings shall lodge a Statement of the Title to such Estate or Interest in the Office of the Court of the Judge before whom such Suit shall have been attached, in like Manner as Statements of Title are now lodged in the Offices of the Masters of the said Court of Chancery, [illegible] save that every such Statement shall henceforth be laid before some practising Barrister of at least *Fifteen* Year's standing, being One of Her Majesty's Counsel, to be specially nominated in such Case by the said Judge, for the Opinion of such Counsel thereon, to be given within a limited Time, to be also specified by the said Judge, to the Intent that the said Judge may be the better enabled to give such Directions as he may deem necessary respecting such Sale as hereinafter mentioned; and save that such Counsel, instead of the Certificate now required by the Practice of the Court to be affixed to such Statement, shall certify that he has examined such Title and the Proceedings in the Suit, and (if such be the Case) that in his Opinion it would be proper and expedient to proceed with the Sale forthwith; or if he shall not be of such Opinion, then he shall suggest such further Inquiries, Notices, or Advertisements as may to him appear expedient preliminary to a Posting for such Sale.

Court to direct Posting or order further Notices, Inquiries, or Advertisements.

V. After such Opinion shall be so obtained, the said Judge shall investigate such Statement of Title and Opinion, with any Suggestions thereon, and by himself or his Chief Clerk settle a Rental, and direct the necessary Posting for such Sale; or if he shall see fit, taking into consideration such Suggestions, it shall and may be lawful for him, instead of settling such Rental and ordering such Posting, to make such preliminary Directions as to further Inquiries, Notices, or Advertisements as to him shall appear just and expedient: Provided that nothing herein contained shall render it imperative on such Judge to direct any such further Inquiry, Notice, or Advertisement, unless he shall consider the same just and necessary.

No Purchaser to object to Title.

VI. No Purchaser of any Estate or Interest in Land sold under the said Court shall be at liberty to refuse to complete such Sale by reason of any Objection to the Title thereof, or on the Ground that the proper Parties had not been brought before the Court or properly served in the Suit in which such Sale was had, or for any other Irregularity or Informality whatever in the Proceedings in the Suit, save for such Misdescription of the Premises in the Rental and Statement thereof which would, according to the existing Practice of the Court, entitle a Purchaser to be discharged from his Purchase: Provided, however, that nothing herein contained shall operate to deprive the Court of the Power of cancelling or opening such Sale, or discharging the Purchaser, or allowing him Compensation, if the said Judge shall deem it just so to do.

Tenancies to be ascertained.

VII. Where any such Sale as aforesaid shall be made under the Decree or Order of the said Court, it shall and may be lawful for the said Court, when and so far as it may deem necessary for the Purposes of

12 & 13 Vict. c. 77. s. 23. 16 & 17 Vict. c. 64. s. 8.

of such Sale, to ascertain the Tenancies of the occupying Tenants, and of any Lessees or Under-lessees whose Tenancies, Leases, or Under-leases affect the Land, or Lease, or Part thereof, to be sold, and to give or cause to be given such Notice, or cause such Advertisements to be published, and make or cause to be made such Inquiries in relation thereto, as it shall deem necessary for ascertaining and securing the Rights of such Tenants, Lessees, or Under-lessees as aforesaid; and all occupying Tenants, and all Persons being or claiming to be Lessees or Under-lessees as aforesaid, shall, at such Times and Places as the Court may by Notice require, produce all Leases, Under-leases, and Agreements in Writing under which such Tenants occupy or claim to hold, if such Leases, Under-leases, or Agreements, or Counterparts thereof, be in their Possession or Power; and where they occupy or claim to hold under Leases, Under-leases, or Agreements in Writing not in their Possession or Power, or under Parol Agreements or Lettings, they shall deliver, at such Times and Places as aforesaid, Particulars of the Terms and Conditions upon and subject to which they occupy or claim to hold; and the Sale shall be made subject to the Tenancies, Leases, or Under-leases ascertained as aforesaid, and subject to which the Owner or Incumbrancer applying for a Sale shall be Owner or Incumbrancer, and such other of the Tenancies, Leases, and Under-leases, ascertained as aforesaid, as shall appear to the Court to have been granted bonâ fide by the Owner or Person in possession or in receipt of the Rents and Profits, and subject to which it shall appear to the Court the Sale should be made, save such (if any) of respective Tenancies, Leases, and Under-leases, as, with Consent as herein-after mentioned, shall be included in such Sale, and, when the Court shall think fit, be made subject to any Leases, Under-leases, or Tenancies, according to any general Description, or subject to any Condition concerning any Leases, Under-leases, or Tenancies, the Nature of which shall not have been ascertained or shall be disputed; and where the Court shall think fit, such Sale may be made subject to Dower or any annual Charge affecting the Land or Lease, or Part thereof sold, or to any such apportioned Part of such Dower or annual Charge as the Court may think fit should remain charged thereon; and where such Land or Lease, or Part thereof, is subject to any Incumbrance, under the Terms of which the Incumbrancer should be required to accept Payment of the Principal Money before the Expiration of a Term of Years unexpired, such Sale may, if the Court think fit, be made subject to such Incumbrance.

Sale may be made subject to Tenancies or annual Charge, or to charge not then redeemable.

Court may make Provision as to Incum-

VIII. It shall be lawful for the Court to sell any Land or Lease or Part thereof discharged from any Crownrent or Quitrent which it may be enabled, and may, with the Consent of the Owner, think fit

to

brances, Charges, &c. to facilitate Sales, &c. and Distribution of Purchase Money.

12 & 13 Vict. c. 77. s. 34.

to purchase, or from any Charge made by virtue of an Act passed in the Sixth Year of Her Majesty, intituled "An Act to promote the "Drainage of Land and Improvement of Navigation and Water-"power in connexion with such Drainage in Ireland," and the Acts amending the same, or by virtue of an Act of the Tenth Year of Her Majesty, intituled "An Act to facilitate the Improvement of Landed "Property in Ireland," or by virtue of any Act or Acts passed, or which may be passed, for amending the said Acts, which the said Court may, with such Consent, think fit to pay off or redeem; and in any such Case the Court shall, out of the Money arising from such Sale, and in preference to all other Payments thereout, pay the Consideration for the Purchase of such Crownrent or Quitrent, or such Sum as may be necessary for paying off or redeeming such Charge, and it shall be lawful for the Court, where it shall think fit, to pay to any Person entitled to any Dower or to any annual or other Charge, not being an Incumbrance, for Payment of which the Court has Jurisdiction to decree a Sale of Land, who may consent to accept the same, a gross Sum in discharge or by way of Redemption thereof, or any Part thereof; and where a Part only of any Land or Lease subject to Dower or to any Incumbrance or Charge is sold, to charge the Part not sold with such Dower, Incumbrance, or Charge, or an apportioned Part thereof, in exoneration of the Money arising from the Sale, and to enable or authorize Persons to release the Money from the Part so sold from any such Dower, Incumbrance, or Charge, or to relinquish their Claim on such Money in respect thereof, without impairing or affecting such Incumbrance or Charge as to the remaining Part of the Land or Lease originally charged; and the Court, where it thinks fit, may invest or provide for the Investment of Money to meet any Claim of Dower or any annual or periodical Charge, or any other Charge, Incumbrance, or Interest, where by reason of such Charge, Incumbrance, or Interest, being contingent or otherwise, it shall appear to the Court proper or expedient so to do, and otherwise may make such Orders and Directions for applying the Money arising from any Sale in such Manner as will secure the convenient Application thereof for the Benefit and according to the Rights of the Parties interested in the Land or Lease, or Part thereof, from the Sale of which the same may have arisen.

Lands included in different Decrees for Sale, and different Interests in the same Land, may be included

IX. Where there shall be separate Decrees of the said Court for Sales of any Land and of any Lease in the same Land, or of Two or more Leases in the same Land, or for different undivided Shares of any Land or Lease, it shall be lawful for the said Court, where it shall see fit so to do, to include, with the Consent of the Persons by whom such respective Decrees may have been obtained, and of any other Persons whose Consent the Court may, under the Circumstances,

in the same Sale.
12 & 13 Vict. c. 77. s. 36.

think fit to require, in the same Sale, upon such Terms as it may think fit, such Land and Lease, or such Leases, or such several undivided Shares as aforesaid; and where any Land or Lease, or Part thereof, subject to any Incumbrance, is decreed or ordered to be sold, it shall be lawful for the Court, upon the Application of the Owner of any Lease or Under-lease, or Estate in Reversion, or other Estate or Interest whatsoever in the same Land, (and although such Lease, Under-lease, Estate in Reversion, or other Estate or Interest be not subject to any Incumbrance, or would not, if subject to any Incumbrance, be liable to be sold under any Decree of the said Court,) or upon the Application of any Incumbrancer on any such Lease, Under-lease, Estate, or Interest, to include the same, upon such Terms as the said Court may see fit, in the Sale of the Land or Lease, or Part thereof, so decreed to be sold as aforesaid; and all the Powers of the said Court and the Provisions of this Act applicable to any Land or Lease subject to any Incumbrance, ordered to be sold, and to any Incumbrance or Charge upon such Land or Lease, and to the Purchase Money arising from the Sale thereof, and to the Conveyance or Assignment thereof, shall, so far as the Circumstances may admit, extend and be applicable to every such Lease, Under-lease, Estate in Reversion, or other Estate or Interest to be so included in the Sale; and in every such Case as aforesaid the Court shall apportion the Purchase Money and Expenses as it sees fit.

If Land sold shall be subject to a Lease, &c. comprising other Land, or if Part of Lease in perpetuity, &c. be sold, the Court may apportion the Rent.
12 & 13 Vict. c. 77. s. 37.

X. If any Land or Lease to be so sold shall be subject to a Lease or Under-lease for Years or Lives, comprising other Land at an entire Rent, it shall be lawful for the said Court to apportion the Rent between the Land to be so sold and the Remainder of the Land subject to such Rent; and where it is intended to sell a Part only of any Lease in perpetuity or other Lease, it shall be lawful for the said Court, where it shall think fit, and (having regard to the Rights and Interest of the Owner of the Reversion) it shall appear just so to do, to apportion the Rent reserved by such Lease between the Land to be sold and the Remainder of the Land; and the said Court shall direct Notices of any such intended Apportionment as aforesaid to be given to such Persons and in such Manner as they shall think fit, and shall hear such Parties as shall apply to them in relation thereto; and after such Apportionment, and after the Sale shall be completed, the Owners of the Reversion in the respective Lands shall have the like Remedies for the apportioned Rents against the Land out of which the same shall be payable, and the Owners and Occupiers thereof respectively, as were subsisting for the entire Rent before such Apportionment; and all the Covenants, Conditions, and Agreements of every Lease or Under-lease, except as to the Amount of Rent to be paid, shall, as regards the apportioned Parts, remain in force in the same Manner as they would have done in case no such Apportionment had taken place.

XI. When

In Suit for Sale of an undivided Share Court may, on giving Notice and hearing Parties, make Order for Partition. 12 & 13 Vict. c. 77. s. 43.

XI. When any Suit shall be pending in the said Court for a Sale of an undivided Share of any Land or Lease, or where any such undivided Share shall have been sold under a Decree or Order of the said Court, and either before or after the Conveyance thereof to the Purchaser, the Court, without any Suit being instituted for that Purpose, on the Application by Motion of any Party interested in such undivided Share, or of the Purchaser (as the Case may be), and after causing to be given such Notice to the Owner or Owners of the other undivided Share or Shares of the same Land or Lease, as to such Court may seem fit, and hearing such Parties interested in the respective Shares as may apply, and making or causing to be made such Inquiries as may enable it to make a just Partition, may, if it think fit, make an Order for the Partition of such Land or Lease, with or without of Partition, as the Case may be; and in such Order, or in a Map or Plan annexed thereto, shall be shown the Part allotted in Severalty in respect of each of the undivided Shares in such Land or Lease; and the said Court shall have the like Authority, Jurisdiction, and Powers in relation to such Partition as if a Suit had been pending for that special Purpose; and the Part so allotted in Severalty in respect of each undivided Share by such Order for Partition as aforesaid shall, without any Conveyance or other Assurance in relation thereto, go and enure to and upon the same Uses and Trusts, and be subject to the same Conditions, Charges, and Incumbrances, as the undivided Share in respect of which the same is so allotted would have stood limited or been subject to in case such Order had not been made; and the like Order for a Sale of the Part allotted in respect of the undivided Share to which the Application for the Sale shall relate may be made (when the Order for a Partition is made before Sale), and the like Proceedings had in relation to such Sale, and the like Conveyance or Assignment may be made of the Part allotted in respect of the Share sold (where the Order for Partition is made after Sale and before Conveyance), and with the like Consequences in the several Cases aforesaid, as if the Suit, Decree, or Order for a Sale, or the Sale (as the Case may be) had been in respect of the Part so allotted as aforesaid; and where any Land or Lease, or Part thereof, to be sold under the Court, is subject to any Lease, Under-lease, or Tenancy under which the Lessees, Under-lessees, or Tenants hold jointly or as Tenants in Common, it shall be lawful for the Court, on the Application of any such Lessee, Under-lessee, or Tenant, and after giving or causing to be given such Notices, and hearing such Parties as it may think fit, and making such Inquiries as it may deem necessary, to make an Order for the Partition, as between such Lessees, Under-lessees, or Tenants, of the Land included in their Lease, Under-lease, or Tenancy, and for the Apportionment of the Rent reserved or payable under such Lease, Under-lease, or Tenancy;

and after such Order of Partition the Owner of the Reversion in the respective Parts of the Land shall have the like Remedies for the apportioned Rents against the respective Parts out of which the same shall be payable, and the Lessees, Under-lessees, or Tenants holding such respective Parts under such Lease, Under-lease, or Tenancy, as were subsisting for the entire Rent before such Partition and Apportionment; and all the Covenants, Conditions, and Agreements of every such Lease, Under-lease, or Tenancy, except as to the Amount of Rent to be paid, shall, as regards the respective Parts allotted on such Partition, and the apportioned Parts of the Rent, remain in force against the respective Lessees, Under-lessees, or Tenants to whom under such Partition such respective Parts shall be allotted.

In Suit for Sale, or after Sale, Court may make Order for Exchange. 12 & 13 Vict. c. 77. s. 44.

XII. Where a Suit shall be pending for a Sale of any Land, or Lease, or Part thereof, or where the same shall have been sold, and either before or after the Conveyance or Assignment thereof, if Application be made to the said Court by any Party interested in such Land or Lease, or by the Purchase (as the Case may be) for the Exchange of all or any Part of such Land, or of all or any Part of the Land comprised in such Lease, for other Land which the Owner thereof may be willing to give in Exchange, the said Court may make or cause to be made such Inquiries as they may think fit for ascertaining whether such Exchange would be beneficial to the Persons interested in the respective Lands, and cause such Notices to be given to Parties interested in the respective Lands as they may think fit; and if, after making such Inquiries and hearing such Parties interested in the respective Lands as may apply to them, the said Court shall be of opinion that such Exchange would be beneficial, and that the Terms thereof as proposed or as modified by it, with the Consent of such Owner as aforesaid, are just and reasonable, the said Court may make an Order for such Exchange accordingly, and in such Order for Exchange, or in a Map or Plan annexed thereto, shall be shown the Lands given and taken in Exchange respectively under such Order; and the Land taken upon such Exchange under such Order shall, without any Conveyance or other Assurance in relation thereto, go and enure to and upon the same Uses and Trusts, and be subject to the same Conditions, Charges, and Incumbrances, as the Land given on such Exchange would have stood limited or been subject to in case such Order has not been made; and the like Order for a Sale may be made in respect of the Land taken in Exchange for any Land, or any Land comprised in any Lease to which the Application for a Sale shall relate (where the Order for Exchange is made before Sale), and the like Proceedings had in relation to such Sale, and the like Conveyance or Assignment may be made in respect of the Land taken in Exchange for the Land or Lease, or Part thereof, sold (where the Order for Exchange is made after Sale, and before Conveyance or Assignment), and with the like Consequences, in the several Cases aforesaid, as if the Suit for a Sale, or the Sale (as the Case may be), had been in respect of the Land so taken in Exchange.

The Court may include Arrears of Rent in a Sale.
16 & 17 Vict. c. 64. s. 9.

XIII. Where a Sale is made by the said Court of any Land or Lease, it shall be lawful for the said Court, whenever it shall appear convenient so to do, to include in such Sale all or any Part of the Arrears of Rent, if any, which may at the Time of Sale be owing from any Lessees or Tenants, subject to whose Leases or Tenancies the Sale is to be made, where such Arrears are subject to any Incumbrance in respect of which an Incumbrancer shall have obtained an Order for Sale, or where the Order for Sale has been obtained by the Owner, and in the Conveyance or Assignment of such Land or Lease to assign such Arrears to the Purchaser accordingly; and such Purchaser, his Heirs, Executors, Administrators, or Assigns, shall, after such Assignment of the said Arrears, have for the Recovery, and in respect of the Nonpayment thereof, the same Rights and Remedies which the Person or Persons who would have been entitled to such Arrears would have possessed if no such Assignment thereof, nor any Conveyance or Assignment of such Land or Lease, had been made.

Where a Lease in perpetuity is ordered to be sold, the Court may convert it into a Fee-farm Grant.
16 & 17 Vict. c. 64. s. 3.

XIV. Where the said Court shall order the Sale of any Lease in perpetuity, it may, if it shall think it expedient so to do, cause Notice to be given to the Owner or other Persons interested in the Reversion, or any Person on behalf of such Owner or other Persons, and may thereupon proceed to convert such Lease in perpetuity into a Fee-farm Grant, according to the Principles prescribed in the Renewable Leasehold Conversion Act, but their Procedure in relation thereto shall be according to the general Rules and Practice of the said Court; and in case such Conversion shall be altered, the said Court shall have Power to convey the Land included in such Lease to the Purchaser in Fee, subject to the Fee-farm Rent ascertained as aforesaid, and to such Exceptions, Reversions, Covenants, and Clauses as shall be in conformity with the original Lease, and the Provisions of the Renewable Leasehold Conversion Act, and thereupon the Owner for the Time being shall have the same Rights and Remedies against the Purchaser, his Heirs, Executors, Administrators, and Assigns, and against the Land, by Action, Distress, Entry, or otherwise in respect of such Rent, and of any Exceptions, Reservations, Covenants, and Clauses contained in the said Deed as belong by Law to the Owner of any Fee-farm Rent created under the said Acts.

In Suits for a Partition, Order and Map sufficient, without Conveyance.
12 & 13 Vict. c. 77. s. 45.

XV. In every Decree for a Partition, made in Suits specially instituted for such Purpose, or in a Map or Plan annexed thereto, shall be shown the Part allotted in Severalty in respect of each such undivided Share; and the Part so allotted in Severalty in respect of each such undivided Share by such Order of Partition shall, without any Conveyance or other Assurance in relation thereto, go and enure to and upon the same uses, and subject to the same Conditions, Charges, and Incumbrances as the undivided Share in respect of which the same is so allotted would have stood limited or been subject to in case such Order had not been made.

Court empowered to institute Suit for Exchange of Land.
12 & 13 Vict. c. 77. ss. 45 and 47.

XVI. It shall be competent for the said Court to entertain a Suit for the Exchange of Lands in Ireland in like Manner as it exercises a Jurisdiction at present for Partition, in which Suit the Court shall make or cause to be made such Inquiries as it may think fit for ascertaining whether such Exchange would be beneficial to the Persons interested in the respective Lands; and in case the Court shall be of opinion, on instituting such Inquiries and causing such Notices to be served as it shall deem fit, that the proposed Exchange would be beneficial, and that the Terms thereof are just and reasonable, it shall and may be lawful for the Court to make a Decree or Order for such Exchange accordingly; and in such Order for Exchange, or in a Map or Plan annexed thereto, shall be shown the Lands given and taken in Exchange respectively under such Decree or Order; and the Land taken upon such Exchange shall, without any Conveyance or other Assurance in relation thereto, go and enure to and upon the same Uses and Trusts, and be subject to the same Conditions, Charges, and Incumbrances, as the Land given upon such Exchange would have stood limited, or been subjected to in case such Order had not been made.

No Decree for Partition in a Suit binding upon Third Persons, unless Notices of same advertised, and Three Months after to object.
12 & 13 Vict. c. 77. s. 48.

No Decree for Exchange if any Person interested

XVII. No such Decree or Order for a Partition in a Suit expressly instituted for that Purpose, and which has not been made as incidental to a Sale, under the Court as aforesaid, shall be binding upon any Person or Persons save the Parties thereto, and such Person or Persons as, being interested in the Lands to be partitioned, shall have intervened pro interesse suo (as they shall be at liberty to do), upon the Inquiry by the Court whether such Partition would be beneficial to the Person interested therein, unless Notice by Advertisement in such Newspapers as the Court shall direct shall have been given of such proposed Partition, and unless *Three* Calendar Months shall have elapsed from the Publication of the last of such Advertisements before such Inquiry shall be entered into; and no such Decree for an Exchange in a Suit expressly instituted for that Purpose, and which has not been made as incidental to a Sale under the Court, as aforesaid, shall be binding except upon the Consent of the Parties to the said Suit, or the Persons who, being interested in such Exchange, shall intervene in the same, and any Person who, after the Publication of Notice of proposed Exchange in manner herein-before provided in relation to Suits for Partition, shall not, within the Period of *Three* Calendar Months from the last Publication of such Notice, intervene in the said Suit and dissent from such Exchange, shall be deemed to have consented thereto; and every such Decree or Order for a Partition or Exchange as last aforesaid shall state the Fact of such Advertisements having been published (if the Fact be so) and the Date of the last of such Publications, and shall state whether the same is binding generally on all Persons whomsoever, or only upon and as between the Parties to the Suit in which such Decree or Order shall have been made, or such Persons as shall have intervened therein; and the Court shall have full Power to bind all Infants, Femes Covert, Idiots, or Lunatics, by such Decree or other Proceedings in the Suit in which such Decree may be made.

shall come in and dissent.

Execution of Conveyance by Judge of the Court sufficient.
12 & 13 Vict. c. 77. s. 24.

XVIII. Where any Sale of any Estate or Interest in Land shall be had under a Decree or Order of the said Court, the Conveyance or Assignment thereof shall be under the Seal of the said Court, and shall be signed by One of the Judges thereof, and the Execution by any other Party of such Conveyance or Assignment shall be unnecessary; and such Conveyance or Assignment shall express or refer to the Tenancies, Leases, and Under-leases (if any) subject to which the Sale is made, and may be in the Form contained in the Schedule to this Act, or to the like Effect, with such Limitation of Uses and other Additions or Variations as, with the Approval of the Court, the Purchaser may require.

Effect of Assurance.
12 & 13 Vict. c. 77. s. 27.

XIX. Every such Conveyance, so executed by such Judge as aforesaid, shall be effectual to pass the Fee Simple and Inheritance of, or such other Estate or Interest in, the Land or arising out thereof, whether corporeal or incorporeal, as is by such Conveyance expressed to be conveyed, subject to such Tenancies, Leases, and Under-leases as shall be referred to therein as aforesaid, but save as aforesaid and as herein-after provided, discharged from all former and other Estates, Rights, Titles, Charges, and Incumbrances whatsoever of Her Majesty, Her Heirs and Successors, and of all other Persons whomsoever; and every such Conveyance or Assignment, excecuted by such Judge upon the Sale of a Lease in perpetuity, or other Lease, shall be effectual to pass the Estate created or agreed to be created by such Lease and then remaining unexpired, subject to the Rent and Covenants annexed to the Reversion expectant or the Determination of such Leases, and to such Tenancies, Leases, and Under-leases as shall be expressed or referred to in such Conveyance or Assignment, but save as aforesaid and as herein-after provided, discharged from all Rights, Titles, Charges, and Incumbrances whatsoever affecting the Leasehold Estate or Interest; provided that where any Land or Lease, or Part thereof, or any Estate or Interest in Land subject to any annual or other Charge, or such apportioned Part thereof, such annual or other Charge, or such apportioned Part thereof only (as the Case may be), shall remain and be charged on and payable out of such Land, Lease, or Interest, or Part thereof, as in the Conveyance or Assignment shall be expressed.

Saving of Right of Common. 12 & 13 Vict. c. 77. s. 28.

XX. Any such Conveyance or Assignment as aforesaid shall not prejudice or affect any Right of Common, or any Right of Way or other Easement, or any Rentcharge in lieu of Tithes, Crown Rent, or Quitrent, charged upon or issuing out of any Land, or any Charge made by virtue of the said Acts severally passed in the Sixth and Tenth Years of Her Majesty, or any Act or Acts which have been or may be passed for amending the said Acts, save where the Court shall think fit to redeem the Crown Rents or Quitrents, or to redeem or pay off the Charges under the said Acts, or any of them, under the Power herein-before contained, and shall express in such Conveyance or Assignment that the Land conveyed or assigned thereby is so conveyed or assigned discharged of all Crown Rents or Quitrents, or Charges under said Acts, or either of them (as the Case may be), and in such Case such Land shall be so discharged accordingly.

Conveyance, Partition, &c. conclusive.

XXI. Every Conveyance and Assignment respectively executed as required by this Act, and every Decree or Order for Partition or for Exchange, shall for all Purposes be conclusive Evidence that every Application, Proceeding, Consent, and Act whatsoever which ought to have been made, given, and done previously to the Execution of such Conveyance or Assignment, or the making of such Decree or Order respectively, has been made, given, and done by the Persons authorized to make, give, and do the same; and no such Conveyance, Assignment, or Order shall be impeached by reason of any Informality therein.

Where Conveyance is made subject to a Lease, it shall not be necessary in pleading to allege prior Title to Reversion.

XXII. Where any Conveyance or Assignment has been made before the passing of this Act, or shall hereafter be made by the said Court or any Judge thereof, subject to any Lease, Under-lease, or Tenancy, such Conveyance or Assignment shall be deemed to afford conclusive Proof that the Estate or Interest purporting to be conveyed or assigned thereby is the Reversion expectant upon such Lease, Under-lease, or Tenancy; and it shall not be necessary in any Action arising out of or connected with such Lease, Under-lease, or Tenancy, or in any Pleadings in such Action, to allege or prove the Title of such Reversion prior to the said Conveyance or Assignment, and the Person to whom such Conveyance or Assignment is made, his Heirs, Executors, Administrators, and Assigns, and every of them, shall and may have and enjoy the like Advantages against the Lessees, Under-lessees, and Tenants, their Heirs, Executors, Administrators, Assigns, and Under-tenants, and against all other Persons in possession or occupation of the Land comprised in such Conveyance or Assignment, by Distress or by Entry, for Nonpayment of Rent, or for doing of Waste, or other Forfeiture, and also shall and may have and enjoy the like Advantages and Remedies by Action for not performing other Conditions, Covenants, and Agreements contained in such Lease or Under-lease, or in the Parol Agreement for such Tenancy, against the said Lessees, Under-lessees, and Tenants, their Heirs, Executors, Administrators, and Assigns, as the Person granting such Lease or Under-lease, or as the Landlord entering into the Agreement for such Tenancy, or his Heirs, Executors, Administrators, or Assigns, ought to have had and enjoyed at any Time or Times, in like Manner and Form as if the Reversion in such Land expectant on such Lease, Under-lease, and Tenancy had remained or continued in such Person granting such Lease or Under-lease, or as Landlord entering into such Agreement.

Orders of the Court may be enforced in England. 12 & 13 Vict. c. 77. s. 14.

XXIII. Whenever an Order shall be made under this Act by the Court of Chancery in Ireland, it shall and may be lawful for the Party obtaining or having the Carriage of the same to apply by Petition to the Court of Chancery in England, that the said last-mentioned Court, without requiring such Exemplification or Enrolment as hereinafter mentioned, may cause like Process to issue to enforce such Order as upon an Order for Payment or accounting for Money made by the High Court of Chancery in Ireland, whereof a Copy has been exemplified and certified to and enrolled in the High Court of Chancery in England, under an Act passed in the Forty-first Year of King George the Third, intituled "An Act for the more speedy and "effectual Recovery of Debts due to His Majesty, His Heirs and "Successors, in the Right of the Crown of the United Kingdom of "Great Britain and Ireland, and for the better Administration of "Justice within the same," which Process the said Court of Chancery in England shall issue accordingly, and have the same Effect as if such Order had been enrolled; and the said Petition shall be grounded on a Copy of the said Order, attested by the proper Officer of the Court of Chancery in Ireland, but without such Exemplification or Enrolment.

Construction of Terms in this Act.

XXIV. In the Construction of this Act (except where the Context or other Provisions of the Act require a different Construction) the

"Court." 12 & 13 Vict. c. 77. s. 54. "Land." "Estate." "Lease."

Word "Court" shall mean either the Lord Chancellor of Ireland, or any of the Judges of the Court of Chancery in Ireland, who according to the Practice of the same are competent to make Decrees or Orders in Suits; and the Word "Land" shall extend to Manors, Advowsons, Rectories, Messuages, Lands, Tenements, Rents, and Hereditaments of any Tenure, whether subject to any Fee-farm or other perpetual Rent, with or without Condition of Re-entry for securing the same or otherwise, and whether corporeal or incorporeal, and any undivided Share thereof; and the Word "Estate" shall extend to an Estate in Equity as well as at Law; and to an Equity of Redemption, and to the Benefit of any Covenant or Contract for or Right of Renewal; and the Word "Lease" shall include an Agreement for a Lease, and the Estate or Interest created, or agreed to be created, by such Lease or Agreement in the whole or any Part of the Land therein comprised.

And to extend to Ireland only.

XXV. This Act shall, except so far as the special Provisions of the same otherwise require, extend only to Ireland.

Court of Chancery (Ireland)
(Sales of Estates).

A

BILL

For securing the Titles of Purchasers of Estates sold under the Court of Chancery in Ireland.

(Prepared and brought in by Mr. Whiteside and Mr. Napier.)

Ordered, by The House of Commons, *to be Printed,*
4 February 1856.

[Bill 15.]

Under 2 *oz.*

2 *May* 1856. 19 Vict.

(Scotland.)

A
BILL
TO
Constitute the Court of Session the Court of Exchequer in Scotland, and to regulate Procedure in Matters connected with the Exchequer.

Preamble.

WHEREAS the Practice and Procedure in the Court of Exchequer in Scotland have been found inconvenient and troublesome, and it is expedient that the whole Power, Authority, and Jurisdiction at present belonging to the Court of Exchequer should be transferred to and vested in the Court of Session in Scotland, and that Provision should be made for the due Administration of Justice by the Court of Session in Exchequer Cases, and for all relative and necessary Proceedings in such Cases: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

The Court of Session to be the Court of Exchequer in Scotland.

I. The whole Power, Authority, and Jurisdiction at present belonging to the Court of Exchequer in Scotland, as at present constituted, shall be transferred to and vested in the Court of Session, and the Court of Session shall be also the Court of Exchequer in Scotland.

One of the Lords Ordinary in the Court of Session to be Lord Ordinary in Exchequer Causes.

II. It shall be lawful for Her Majesty, Her Heirs and Successors, from Time to Time to nominate and appoint One of the Lords Ordinary in the Outer House of the Court of Session to be Lord Ordinary in Exchequer Causes under this Act; and the Lord Ordinary to be so appointed shall, unless where otherwise expressly allowed by this Act, be the sole Lord Ordinary in all Causes to be instituted or carried through before the Court of Session by virtue of this Act, and shall continue to act as Lord Ordinary in all such Causes so long as he shall continue a Lord Ordinary in the Outer House, or until another Lord Ordinary shall be nominated as aforesaid to act as Lord Ordinary in Exchequer Causes in his Room and Stead; and, unless where otherwise expressly provided by this Act, all Proceedings in Exchequer Causes under this Act shall be brought in the first instance before such Lord Ordinary.

Lord Ordinary in Exchequer Causes may act in Vacation as well as during Session; and in his Absence any other Lord Ordinary may act in his Room.

III. It shall be competent to the Lord Ordinary in Exchequer Causes at any Time, as well in Vacation or Recess as during the Sittings of the Court of Session, and on any Day or Days of the Year, whether Sederunt Days of the Court of Session or not, to entertain and dispose of all Matters of a summary Nature, or which may appear to the Lord Ordinary to require Despatch, being within his Competency under this Act, and also to try any Cause under this Act, and to pronounce Judgment therein, and in case of the Absence or Inability of the Lord Ordinary, any Duties devolving on him under this Act may, during such Absence or Inability, be performed by any other Lord Ordinary of the Court of Session acting in his Room and Stead.

Clerks to the Lord Ordinary in Exchequer Causes to be Clerks in in such Causes; and additional Salary granted.

IV. The Depute and Assistant Clerks of Session attached to the Lord Ordinary in Exchequer Causes shall be Clerks in all such Causes in the Outer House; and it shall be lawful for the Commissioners of Her Majesty's Treasury to grant to such Assistant Clerk of Session, in respect of the Increase of his Duties under this Act, an annual Allowance not exceeding *Fifty Pounds* per Annum, in addition to his ordinary Salary; and such Allowance shall be paid out of any Monies which may from Time to Time be voted by Parliament for that Purpose.

Exchequer Causes may be commenced by Subpœna.

V. It shall be competent to the Lord Advocate, on the Behalf of Her Majesty, to commence any such Cause by issuing or causing to be issued against the Defender a Subpœna in the Form, as nearly as may be, of Schedule A. hereunto annexed, which Subpœna may be served upon the Defender and Execution of Service returned in the like Manner as any ordinary Summons before the Court of Session may be served and Execution thereof returned; provided that such Service may be made either by a Messenger-at-Arms, or

Sheriff Officer, or by an Excise Officer or other Officer of the Department of Inland Revenue, or any Officer of the Customs.

Subpœna to be called in Court as a Summons, and Procedure thereon.

VI. On the Expiration of the Induciæ of any such Subpœna, such Subpœna may be called in the Court of Session, and thereafter enrolled, in the like Manner as any ordinary Summons; and the Lord Ordinary shall, at the Outset of the Cause, unless the Information to which such Subpœna relates be then produced and lodged in Process, pronounce an Interlocutor allowing such Information to be lodged in Process, and no further Proceeding shall take place until such Information be lodged; and upon such Information being lodged a Copy thereof shall be served upon the Defender, unless such Service shall have been previously made; and the Transmission of such Copy through the Post, addressed to his known Residence or Place of Business, shall be deemed sufficient Service; and a Certificate by any One Person, written on the Information itself and signed, bearing that a Copy thereof has been served upon the Defender, shall be primâ facie Evidence of such Service having been duly made; and after the Information shall have been served as aforesaid, the Lord Ordinary shall, if the Defender shall admit the Truth of the Information, or of such Part thereof as may be insisted in against him, or do not appear, give Decree in Terms of the said Information, so far as the same shall be insisted in; and if the Defender shall appear, and shall not admit as aforesaid, the Lord Ordinary shall appoint a Day for hearing the Parties upon such Information, where this may appear to him to be necessary, or shall appoint a Day for trying the Matters put in Issue by such Information, without any Adjustment of any separate Issue or Issues, or shall take such other Course as to him may seem proper; and where a Day shall be so appointed for Trial, a Common or Special Jury (where a Special Jury shall be applied for and granted) shall be summoned and empanelled, as in any ordinary Jury Cause before the Court of Session to be tried by a Lord Ordinary in the Outer House; and the Lord Ordinary in Exchequer Causes shall preside at such Trial, unless in any particular Case, upon a special Request by such Lord Ordinary to that Effect, to either of the Two Divisions of the Court of Session, another Lord Ordinary shall be appointed to preside in his Stead; and the Verdict of the Jury may be in one or other of the Forms in the Schedule C. hereunto annexed, or in such other Form as may be applicable to the Case; and on such Verdict being given the Lord Ordinary presiding at the Trial shall pronounce Decree in conformity therewith, and as may be just and according to Law.

Form of Information in Causes commenced by Subpœna.

VII. Every Information to be lodged in Terms of this Act shall be in the Form, as nearly as may be, of the Schedule B. hereunto annexed; and it shall be competent to the Lord Advocate, on the Behalf of Her Majesty, to amend his Information at any Time before Verdict; provided that no such Amendment shall be made by the Lord Advocate after a Day has been fixed for Trial, unless upon Payment to the Defender of his Expenses previously incurred: Provided also, that it shall not be necessary to mention in any Information any Act of Parliament other than the Act imposing any Penalty or Duty claimed, or creating any Debt sought to be recovered; and provided further, that, notwithstanding the Terms of any such Information, it shall not be incumbent to prove against the Defender, in order to recover under such Information, any Matters stated therein, except only such Matters as are by Law required to be proved in order to the Forfeiture of the Penalty, or the Recovery of the Duty or Debt, or the Condemnation of the Seizure sought for.

Special Case may be lodged where Parties agreed upon the Facts.

VIII. Where in any such Cause commenced by Subpœna as aforesaid the Parties shall be agreed upon the Facts, and shall dispute only on the Law, it shall be competent for them to lodge in Process a Special Case, signed by themselves or their Counsel, setting forth the Facts on which they are so agreed and upon which the Question of Law arises, and such Special Case shall be equivalent to a Special Verdict finding such Facts, and raising a Question of Law for the Lord Ordinary.

Procedure in Cases commenced by Subpœna, so far as not expressly provided, how to be regulated.

IX. The Procedure in all Cases commenced by Subpœna as aforesaid shall, in so far as not specially provided for by this Act, be regulated by the Lord Ordinary, subject to any Rules and Regulations to be formed as after mentioned, in such Way and Manner as to the Lord Ordinary shall seem proper and expedient; and, in so far as not so regulated, shall be conducted as nearly as may be in conformity with the Procedure before the Court of Session in ordinary Actions; provided that Protestation shall not be applicable to any such Cases, nor shall any such Cases fall asleep or require to be wakened, nor shall any Record require to be made up by Defences, or revised Condescendence and Defences, or to be closed.

Proceedings may be commenced by Summons in place of Subpœna; and Procedure under Summons to be the same as in Ordinary Court of Session Cases.

X. It shall be competent to the Lord Advocate, on the Behalf of Her Majesty, in place of proceeding by Subpœna and Information as herein-before provided, to commence any such Cause by a Summons in one or other of the Forms in Use in the Court of Session for the Time being; and Proceedings may also be taken by Summons as aforesaid at the Instance of any Person or Persons alleging a Ground of Action against the Crown; and where such Cause shall be commenced by Summons, the whole Proceedings shall be conducted throughout as nearly as may be in the like Way and Manner as in Causes depending before the Court of Session, other than Exchequer Causes; and every such Summons to be raised on the Behalf of Her Majesty may contain Warrant to arrest on the Dependence; and all

Diligence shall be competent upon every such Summons to be raised on the Behalf of Her Majesty, and upon any Warrant to arrest on the Dependence contained therein, and with such and the like Operation and Effect as upon any ordinary Summons, or Warrant to arrest on the Dependence contained therein before the Court of Session, according to the Law and Practice in Use in the said Court for the Time in ordinary Causes.

Procedure in Cases of Seizure.

XI. Where any Seizure shall be made by any Officer entitled to make such Seizure, such Officer shall, at the Time of making such Seizure, where judicial Condemnation thereof shall be requisite, make an Appraisement of the Articles comprehended therein in the Form, as nearly as may be, of the Schedule D. hereunto annexed; and such Appraisement shall be lodged in the Office of the Clerk of Court attached to the Lord Ordinary, within *Thirty* Days after such Seizure, otherwise such Seizure shall lapse and cease to have effect; and such Appraisement of Seizure shall be included by the said Clerk of Court, and published in the Weekly Calling List of the Court of Session not later than *Fourteen* Days after being lodged with him as aforesaid; and a Claim for the Articles comprehended in such Seizure, or any of them, in the Form, as nearly as may be, of the Schedule E. hereunto annexed, may be lodged with the said Clerk of Court at any Time within *Eight* Days from the Date of the Calling of such Appraisement as aforesaid; and it shall be competent to the Lord Advocate, on the Behalf of Her Majesty, or to the Party claiming such Seizure, to enrol such Appraisement of Seizure in the Weekly Roll of Court of Session Causes at any Time after the Expiration of the said *Eight* Days; and at the calling of such Appraisement in the said Weekly Roll, if no Claim to such Seizure shall have been lodged, the Lord Ordinary shall pronounce Decree of Condemnation of such Seizure, and thereupon such Seizure shall belong to and be at the Disposal of the Crown; and if a Claim to such Seizure shall have been lodged as aforesaid, the Lord Ordinary shall pronounce an Order upon the Lord Advocate to lodge an Information of Seizure on the Behalf of Her Majesty; and, upon such Information of Seizure being lodged, the Procedure shall thenceforward be conducted, as nearly as may be, in the like Manner as in ordinary Causes commenced by Subpœna and Information, in Terms of this Act.

Procedure in lieu of Writs of Capias, &c.

XII. Where any Cause may, at the Date of *the passing of this Act*, be competently commenced before the Court of Exchequer by Writ of Capias, or where, at the Date of *the passing of this Act*, it is competent to apprehend the Defender or Person complained of, in order that he may find Security to appear and answer, or to pay the Penalties, Duties, or Debt sought to be recovered, it shall be competent to pray or conclude in any Information, Summons, or Proceeding to be raised under this Act for Warrant to apprehend such Defender or Person complained of; and such Warrant shall be granted by the Lord Ordinary on Production to him at any Time, whether during Session or not, of the Information or other Writ containing such Prayer or Conclusion, although the same may not have been served, or called, or enrolled; and in every such Case the Defender, or Person complained of, when apprehended, shall be bound with Two sufficient Sureties, to the Satisfaction of the Prosecutor or of the Lord Ordinary, to appear and answer in the Proceeding brought against him as aforesaid, and to pay the Penalties, Duties, or Debt sought to be recovered, if he shall be found liable therein, or such Sum or Sums as under such Proceeding he may be found liable to pay; and failing his finding such Security, the Lord Ordinary shall grant Warrant for detaining him in Prison, and he shall be detained in Prison accordingly, until such Security be found, or until the Issue of such Proceeding, or until he be liberated in due Course of Law.

Procedure in lieu of Writs of the Pipe.

XIII. In all Cases where, according to the Practice of the Court of Exchequer at the Date of *the passing of this Act*, any Rentcharges or Penalties may be levied by Process of the Pipe, it shall be competent for the Lord Ordinary in Exchequer Causes, and he is hereby required, upon the Production to him of a Certificate by any Person charged with the Recovery or Collection of such Rentcharges or Penalties, setting forth that any such Rentcharge or Penalty is due, and the Amount and other Particulars thereof, and the Party or Parties indebted therein, and that he has been unable to recover the same, to issue ex parte, and without the Form of any written Application, a Decree decerning and ordaining such Party or Parties to make Payment of such Rentcharge or Penalty; provided, that all Penalties which may be incurred in one County or Stewartry may be included in One Decree and Charge: Provided also, that any Charge to be given on such Decree, or any Diligence following thereon, may be brought under Suspension by the Party against whom the same is directed, but no such Suspension shall be competent before a Charge has been given.

Procedure in lieu of Injunction.

XIV. In all Cases in which, if occurring at the Date of *the passing of this Act*, any Person or Persons would be liable to be stayed by Injunction furth of the Court of Exchequer, whether in respect of such Person or Persons prosecuting or threatening to prosecute before any Court other than the Court of Exchequer in any Matters connected with the Revenue, or with the Proceedings of Officers of the Revenue, or in any other Matters as to which exclusive Jurisdiction is at present possessed by the Court of Exchequer, or otherwise, it shall be competent to apply to the Lord Ordinary in Exchequer Causes to restrain such Person or Persons by Interdict from following out such Prosecution in another Court or otherwise, according to the Circumstances of the Case; and such Application may be made by a Note of Interdict having a Statement of Facts and Note of Pleas in Law appended thereto, all as nearly as may be in the Form at present in Use in the Court of Session; and such Note of Interdict shall be lodged in the Office of the Clerk of Court attached to the said Lord Ordinary, and shall be forthwith submitted by such Clerk to the said Lord Ordinary, who may thereupon at once grant Interdict or at once refuse to grant it, or appoint such Note of Interdict in the first place to be served, and if need be to be answered, or Parties to be heard thereon with or without Answers, and may thereupon give Decree granting or refusing Interdict, or may take such other Course in regard to such Application for Interdict as to him may seem proper; provided, that where Interdict shall be granted as aforesaid with reference to any Cause requiring to be instituted within a limited Time, or which, if not instituted within a limited Time, may be competently objected to as not timeously brought, the Time which may have elapsed between the Date of the Service of such Interdict and the Date of the Institution of such Cause to which such Interdict relates, with *Ten* Free Days in addition thereto, shall be added to the Period limited as aforesaid, and such Cause shall be deemed and taken to be timeously brought, if instituted at any Time within such extended Period.

Procedure in lieu of Mandamus.

XV. In all Cases where, at the Date of the *passing of this Act*, it would be competent to apply to the Court of Exchequer for a Rule upon any Person or Persons to show Cause why a Mandamus should not issue against such Person or Persons, directing him or them to do any Act or to perform any Duty, and for such Court of Exchequer, failing such Cause being shown, to issue a Mandamus against such Person or Persons to the Effect aforesaid, it shall be competent to apply to the Lord Ordinary in Exchequer Causes by summary Petition, setting forth briefly the Facts on which the Application is based, for an Order on such Person or Persons decerning and ordaining him or them to do the Act, or to perform the Duty which he or they is or are refusing or neglecting to do or perform; and in the event of the Failure of such Person or Persons to conform and to implement the Terms of said Order, to pay conjointly and severally, or jointly, or otherwise as to the Lord Ordinary may seem fit, such Sum or Sums of Money as may be reasonably demanded in respect of such Failure, and that either in lieu of or by way of Fine or Penalty over and above Performance; and the Lord Ordinary shall order Service of such

Petition on such Person or Persons as he may deem proper, and may, if he sees fit, appoint Answers to be lodged to such Petition, or Parties to be heard thereon, with or without Answers, and may thereupon give Decree granting or refusing the Prayer of such Petition, or may take such other Course with regard thereto as to him may seem proper; provided that it shall be competent to the Lord Ordinary to prescribe what shall be deemed good Service of any Order, Interlocutor, or Decree which may be pronounced by him upon any Person or Persons who may be affected thereby.

Procedure on Affidavit of Danger.

XVI. Where in any Case any Officer of the Revenue shall make Affidavit that a Debt or Duty is due to the Crown by a Crown Debtor believed to be or to have died insolvent, and shall state in such Affidavit any reasonable Ground for such Belief, and that there is Danger of Loss to the Crown or Revenue with respect to such Debt or Duty, it shall be competent to the Lord Advocate, on the Behalf of Her Majesty, to present a summary Petition to the Lord Ordinary, setting forth that such Debt or Duty is resting owing, and that such Affidavit of Danger has been made, producing such Affidavit along with such Petition, and the Lord Ordinary may thereupon, without further Evidence or Inquiry, issue ex parte a Summary Act and Decree decerning and ordaining such Crown Debtor to make Payment of such Debt or Duty; provided that any Charge to be given on such Decree, or any Diligence following thereon, may be brought under Suspension by such Crown Debtor, or his Representatives, or any others in his Right; but no such Suspension shall be competent before such Charge has been given, or where the Crown Debtor is deceased before Arrestment has been used or Poinding executed.

Procedure in Lieu of Writs of Habeas and Certiorari.

XVII. In all Cases where, at the Date of the *passing of this Act*, a Writ of Habeas or a Writ of Certiorari might have competently issued from the Court of Exchequer to the Effect of removing any Proceedings before, or Warrant granted or issued by any Inferior Court or Magistrate or Public Officer to the said Court of Exchequer, in order to Examination, it shall be competent to the Party against whom such Warrant is directed, or to either of the Parties to such Proceedings, to bring up such Warrant or Proceedings to the Court of Session sitting as the Court of Exchequer, to the like Effect as by such Writ of Habeas or Writ of Certiorari before the *passing of this Act*, and that by lodging in the Office of the Clerk of Court attached to the Lord Ordinary in Exchequer Causes a Note of Appeal, in the Form or as nearly as may be in the Form of the Schedule F. hereunto annexed; and such Note of Appeal shall be forthwith submitted by such Clerk of Court, in a summary Way to the Lord Ordinary, who may thereupon at once direct such Warrant or

Proceedings to be transmitted to the Court of Session, or may at once refuse to give such Direction or to entertain such Appeal; or, if he sees fit, may order such Note of Appeal to be served upon the Inferior Magistrate or Magistrates, or Public Officer or Officers, or upon the opposite Party, or both, and them or either of them to lodge Answers to such Appeal; and may also, if he sees fit, order Parties to be heard upon such Note of Appeal, with or without Answers; and may thereupon pronounce such Orders or Decrees as he may deem proper upon the Matters raised by such Appeal; and in particular may either dismiss such Appeal, and remit back simpliciter the Warrant or Proceedings, or may give Decree quashing or setting aside the Warrant, or quashing or setting aside the Proceedings, in whole or in part, and may give such Directions to such Inferior Court, or Magistrate or Public Officer, with regard to his or their Proceedings, as may be just; provided that every Clerk of an Inferior Court or other Public Officer having in his Hands or under his Control any such Warrant or Proceedings shall, on receipt of a Copy certified by any Dèpute or Assistant Clerk of Session of any Interlocutor of the Court of Session or of the Lord Ordinary in Exchequer Causes, directing such Warrant or Proceedings to be transmitted to the Court of Session or to the Lord Ordinary, be bound forthwith to transmit such Warrant or Proceedings, with a proper Inventory thereof certified by him to be correct, to the Office of the Clerk of the Court of Session attached to the Lord Ordinary; and where any such Warrant or Proceedings so transmitted to the Court of Session or to the Lord Ordinary shall be remitted back, it shall be the Duty of the Clerk of the Court of Session to re-transmit the same to the Clerk of such Inferior Court or other Public Officer from whom they were received.

Duties of Court of Exchequer with reference to Crown Entries to be performed by Lord Ordinary in Exchequer Causes.

XVIII. The Duties heretofore performed by or incumbent on the Judges of the Court of Exchequer, under and by virtue of an Act passed in the Session of Parliament holden in the Tenth and Eleventh Years of the Reign of Her present Majesty, intituled "An "Act to amend the Practice in Scotland with regard to Crown "Charters and Precepts for Chancery," shall be performed by the Lord Ordinary in Exchequer Causes.

Duties of Court of Exchequer in Appointment of Tutors Dative to be performed by Inner Houses of Session.

XIX. The Duties heretofore performed by or incumbent on the Court of Exchequer with regard to the Nomination, Appointment, or Control of Tutors Dative shall be performed by the Court of Session acting as the Court of Exchequer in Scotland, upon Applications for such Nomination or Appointment to be made to either of the Divisions of the said Court by way of summary Petition; and the Procedure under such Petitions may be, as nearly as may be, the same as under other summary Petitions to the said Court, but may be regulated and varied from Time to Time in such Way and Manner as to the said Court may seem proper.

Interlocutors in Exchequer Causes may be reclaimed against, and appealed, as if pronounced in ordinary Court of Session Causes.

XX. All Interlocutors of the Lord Ordinary in Exchequer Causes shall be subject to Review of either Inner House of the Court of Session; and all such Interlocutors, and all Interlocutors of the Inner House in Exchequer Causes, shall be subject to Appeal to the House of Lords, in the like Manner, and to the same Extent and Effect, and under the same Rules and Regulations as any Interlocutor of a Lord Ordinary or of the Inner House in any ordinary Cause before the Court of Session.

Suspension. where competent, to be by Note in the Bill Chamber in common Form;

And when Note passed Case to depend before Lord Ordinary in Exchequer Causes.

XXI. Any Suspension may be competently brought at the Instance or on the Behalf of Her Majesty, or of any Subject, of any Decree, Charge, threatened Charge, or Diligence whatever in any Cause or Matter connected with the Exchequer, in the like Manner and to the same Extent and Effect as if such Decree, Charge, threatened Charge, or Diligence were in Causes or Matters connected with any ordinary Court of Session Process or Procedure; and the Application for such Suspension may be made in the Bill Chamber by Note of Suspension in ordinary Form, and the Proceedings under the same shall thereafter be conducted as in any ordinary Court of Session Process of the like Nature; provided that, on any such Note of Suspension being passed and enrolled the Lord Ordinary in Exchequer Causes shall be the Lord Ordinary in such Process.

The Lord Advocate to sue and be sued on behalf of Her Majesty.

XXII. All Causes which shall be brought on the Behalf of the Crown in Terms of this Act shall be at the Instance of the Lord Advocate on the Behalf of Her Majesty; and it shall be competent for any Person alleging any Ground of Action against the Crown, which at the Date of the *passing of this Act* was cognizable by the Court of Exchequer as at present constituted, to call the Crown, by calling the Lord Advocate as Defender or Respondent on the Behalf of Her Majesty; and all Interlocutors or Decrees which shall be pronounced in any such Cause shall be binding upon Her Majesty and Her Royal Successors as upon the other Parties thereto; and where in any such Cause any Decree shall be obtained against the Lord Advocate on the Behalf of Her Majesty, Payment of any Money contained in such Decree shall be made, and such Decree shall be otherwise implemented by the Commissioners of Her Majesty's Treasury, or by such Board of Revenue or other Department as in the Opinion of the Lord Advocate ought properly to make such Payment or Implement; and the Person obtaining such Decree shall be entitled to demand from the Lord Advocate a Certificate of his

Opinion accordingly, but shall not be entitled to put such Decree in farther Execution against the Lord Advocate.

Privilege of Audience preserved to the Crown.

XXIII. In all Causes which shall be brought under this Act the Lord Advocate shall, in pleading on the Behalf of the Crown, whether before the Court or a Jury, have the Privilege of being heard last, according to the present Practice of the Court of Exchequer.

Costs may be given for and against the Crown.

XXIV. In all Causes which shall be instituted under this Act before the Court of Session acting as the Court of Exchequer in Scotland, and in all Causes presently depending, or which shall come to depend, before any Civil Court in Scotland at the Instance or on the Behalf of the Crown, against any Person or Persons, or against the Crown at the Instance of any Person or Persons, the Crown, or the Lord Advocate or other Person or Persons suing on its Behalf, shall be entitled, when Decree shall be given for the Crown, to move for and recover Expenses of Process, in the like Manner as and under the like Rules, Regulations, and Provisions as are or may be in force touching Expenses of Process in Proceedings between Subject and Subject; and, where in any Cause, whether to be brought under this Act, or presently depending, or which may come to depend before any Civil Court in Scotland, Decree shall be given against the Crown, the Subject obtaining such Decree shall be entitled to move for and, if awarded, to recover Expenses of Process in the like Manner and subject to the like Rules, Regulations, and Provisions as aforesaid; and it shall also be competent to recover Expenses of Diligence to which the Crown is a Party in the like Manner and to the like Extent as such Expenses may be recovered in Cases between Subject and Subject.

Exchequer Causes to have Precedence of all others.

XXV. All Causes which shall be brought in Terms of this Act shall be deemed and treated as Summary Causes, and shall be denominated Exchequer Causes, and as such be placed at the Head of every Roll of Causes in which they appear, both in the Inner and Outer House, and shall at all Times take Precedence of and have Preference over all other Causes whatsoever.

Business of Exchequer to be performed during the Sittings of the Court of Session, and in certain cases in Vacation or Recess.

XXVI. The Business of the Court of Exchequer shall be performed by the Court of Session, in Terms of this Act, during the Sittings of the Court of Session for the Despatch of its ordinary Business, or during any Extension of those Sittings, when such shall occur; and that Part of the Winter Sittings of the Court of Session which precedes the Christmas Recess, and that Part of such Sittings which follows such Recess, and the Summer Sittings of the Court of

Session, shall be held to correspond with the Terms heretofore observed in the Court of Exchequer.

Certified Copies of Interlocutors, equivalent to Extracts, except in order to Diligence.

XXVII. It shall not be necessary in any Cause to be instituted under this Act to extract any Interlocutor, Order, Act, or Warrant to be pronounced therein, unless for the Purpose of proceeding with Diligence thereon; and a Copy of any such Interlocutor, Order, Act, or Warrant, certified under the Hand of any Principal Depute or Assistant Clerk of Session to be a true Copy, shall be equivalent to a formal Extract thereof; provided that no Diligence shall proceed except upon a formal Extract.

Minute Book dispensed with as to Extracts of Exchequer Decrees; such Extracts to have Priority in the Extractor's Office; and such Extracts, and also Extracts of registered Bonds to Her Majesty, to be in ordinary Form; except that Warrant to charge to be in Form Scheduled.

XXVIII. All Decrees to be pronounced under this Act by either Division of the Court of Session, sitting as the Court of Exchequer, shall be extracted by the Extractor of the Court of Session without abiding the Expiration of the Days of the Minute Book, which are hereby dispensed with; and such Extractor shall give to all Extracts in Exchequer Causes Preference and Priority in the Preparation thereof over all other Business in his Office; and such Extracts, and also the Extracts of all Decrees proceeding upon Bonds, or other Obligations to Her Majesty, on which Execution may competently proceed, registered in the Books of Council and Session or in the Books of any Sheriff Court, shall be as nearly as may be in ordinary Form, so far as such Form may be consistent with the Provisions of this Act; except that in the Case of Extracts of Decrees proceeding upon Bonds and other Obligations to Her Majesty, registered as aforesaid, and also in the Case of Extracts of such Decrees as aforesaid decerning for Payment of any Penalty, Duty, or Debt due to Her Majesty, the Extractor shall insert in the Extract a Warrant to Sheriffs to charge and execute Diligence, in Terms as nearly as may be of the Schedule G. hereunto annexed, in lieu of the Warrant to charge and for Diligence in Use in ordinary Cases; and such Extract shall be a sufficient Warrant to any Messenger-at-Arms or Sheriff Officer to execute Charge, Arrestment, and Poinding in Terms thereof.

Exchequer Decrees to be put in Execution by Sheriffs.

XXIX. It shall be the Duty of every Sheriff to whose Hands any such Extract shall be intrusted for that Effect by any Public Officer on the Behalf of Her Majesty to put the same to Execution with all due Despatch, and to take all such lawful and proper Measures as by such Public Officer may be required, in order to enforce by means thereof, Payment of the Monies, if any, decerned for, and full Implement of the Decree; and it shall be lawful to any such Sheriff to recover and take Payment, on the Behalf of Her Majesty, of the Contents of any such Decree, and upon Payment or Implement in Terms thereof, in whole or in part, to discharge such Decree, but that only to the Extent to which Payment or Implement shall have been obtained by him as aforesaid; and every such Sheriff shall, on the Receipt by him of any Money on the Behalf of Her Majesty, under such Decree, be bound to account for and pay over the same to the Public Officer from whom he received the Extract as aforesaid, or to some other Public Officer or Department entitled to receive the same on the Behalf of Her Majesty.

Sheriff may arrest on Extract Decree; and such Arrestment shall transfer to the Crown the arrested **Fund.**

XXX. It shall be lawful for any Sheriff, by virtue of any such Extract, to cause Arrestment to be used thereon in the Hands of any Person in ordinary Form; and such Arrestment shall operate to transfer to the Crown, preferably to all other Creditors of the Crown Debtor, all Right to and Interest in the arrested Fund, competent to the Crown Debtor, to such Extent as may be requisite to satisfy and pay the entire Debt due to the Crown, including Interest and Expenses; and every Person in whose Hands any such Arrestment shall be used on the Behalf of Her Majesty shall be entitled, and be in Safety, to pay to such Sheriff on the Behalf of Her Majesty all Funds in his Hands at the Date of such Arrestment belonging to the Crown Debtor, to any Extent not exceeding the Amount of the Crown Debt with Interest and Expenses, without abiding the Institution of any Process of Furthcoming, or any Decree therein; and if such Payment be not made, it shall be competent to the Crown to follow up such Arrestment by Furthcoming, and also to pursue and do Diligence against the Party indebted to such Crown Debtor, to the full Extent of the Debt due by such Party, as if the Crown stood specially and lawfully assigned into the Debt so due, and into all Bonds, Bills, and Obligations held by the Crown Debtor therefor, and as if such Party were directly indebted to the Crown in the Debt so due: Provided that the Crown shall be accountable to the Crown Debtor, or those in his Right, for any Surplus to be realised by the Crown beyond the Amount of the Crown Debt, with Interest and Expenses.

Sheriff may charge Crown Debtor on Extract Decree;

Execution of Charge to be in Form scheduled.

XXXI. It shall be lawful for any Sheriff, by virtue of any such Extract, to cause charge the Crown Debtor therein mentioned to pay to him, the said Sheriff, for the Behoof of Her Majesty, the Sums of Money therein mentioned, or to perform the Obligations therein specified, within the Days of Charge therein prescribed with reference to such Crown Debtor from and after the Date of Charge, under the Pain of Poinding and Imprisonment; and the Officer executing the same shall return an Execution in Terms of the Schedule H. hereunto annexed, or as near to the Form thereof as Circumstances will permit.

Sheriff may Poind on Extract Decree.

XXXII. On the Expiration of the Days of Charge against the Crown Debtor, it shall be lawful for any Sheriff, by virtue of any such Extract as aforesaid, to cause poind the whole moveable Effects, without Exception, of such Crown Debtor, including Bank Notes, Money, Bonds, Bills, Crop, Stocking, and Implements of Husbandry of all Kinds, in or towards Payment of the Sums of Money therein mentioned; and such Poinding shall be carried through as nearly as may be in ordinary Form; except that it shall be lawful for the Officer executing such Poinding, where it is deemed expedient, to take Possession of the poinded Effects, and to place them in a Place of Security instead of leaving them with the Person in whose Possession they were when poinded; and, on the Execution of Poinding being reported, the Sheriff shall grant Warrant to the Sheriff Clerk to sell them in common Form; and if no Offerer appear at the Roup, the Effects, or such Part thereof as according to the appraised Value may satisfy the Debt, Interest, and Expenses due to Her Majesty, shall be retained by the Sheriff for Her Majesty's Behoof at such appraised Value, subject to such Directions as he may receive with regard to the Disposal thereof from the Public Officer from whom he received the Extract as aforesaid, or from any Public Officer or Department acting in the Matter on the Behalf of the Crown.

Poinding to be in ordinary Form; Except that Poinded Effects may be taken possession of; And, if no Offerer at Sale, Sheriff to retain them on Behalf of the Crown.

On Expiration of Charge, Sheriff may record the Extract and Execution of Charge.

XXXIII. It shall be competent to any Sheriff, at any Time within *Year and Day* after any such Charge has expired, to cause any such Extract, and the Execution of Charge thereon, to be presented to the Sheriff Clerk of the County in which such Charge was given; and such Sheriff Clerk shall thereupon record the Execution in the Register of Hornings kept by him, and state therein the Name and Designation of the Person by whom such Extract and Execution were presented, and the Date of the Presentation, which Registration shall have all the like Operation and Effect as the Registration of any expired Charge of Payment, in Terms of the Act passed in the Session of Parliament holden in the First and Second Years of the Reign of Her present Majesty, intituled "An Act to amend the "Law of Scotland in Matters relating to Personal Diligence, Arrest-"ments, and Poindings."

1 & 2 Vict. c. 114.

After Execution of Charge recorded, Sheriff may issue Warrant to imprison.

XXXIV. On the Execution being so recorded, the Sheriff Clerk shall write upon the Extract, and upon the Execution (if it be written on Paper apart), a Certificate of the Registration thereof, which he shall date and subscribe, in Terms of the Schedule I. hereunto annexed, or as near thereto as Circumstances will permit; and it shall be lawful for the Sheriff to issue a Warrant to imprison in Terms as nearly as may be of the Schedule K. hereunto annexed; and it shall be lawful for any Messenger-at-Arms or Sheriff Officer, by virtue of such Extract and Warrant to imprison, to search for, take, apprehend, and imprison the Debtor or Obligant, and, if necessary for that Purpose, to open shut and lockfast Places; and the Magistrates and Keepers of Prisons are hereby authorized and required to receive into and detain in Prison the Person of the Debtor or Obligant, till liberated in due Course of Law, in like Manner as under any Extract and Warrant to imprison issued under the last-mentioned Act.

Sheriff may seize Books of Crown Debtor under Extract Decree.

XXXV. It shall be lawful for any Sheriff, by virtue of any such Extract, to cause the Sheriff Clerk of his County, or other Person empowered by him in that Behalf, to seize and detain the Books of Account and other Books and Papers of the Crown Debtor, in order to ascertain the State of his pecuniary Affairs, and the Book and other Debts due to him, and the Names and Residences of his Debtors, and the Amounts of the Debts severally due by them; and such Extract shall be a sufficient Warrant to such Sheriff Clerk or other Person to seize and detain such Books and Papers in Terms thereof; and such Sheriff Clerk or other Person shall return an Execution of such Seizure in the Form as nearly as may be of the Schedule L. hereunto annexed, and such Books and Papers shall be open to the Inspection of the Sheriff, and of any public Officer having Interest therein on the Behalf of the Crown.

Effects of deceased Crown Debtor may be attached by Arrestment or Poinding.

XXXVI. It shall be competent, notwithstanding the Death of any Person indebted to the Crown by Bond or other Obligation on which Diligence may competently proceed, or under any Extract Decree decerning for Payment of any Penalty, Duty, or Debt to Her Majesty, to proceed against the Estate and Effects of such Debtor by Arrestment, and also by Poinding; and it shall not be necessary in order thereto to cite or charge the Executor or other Representative of such Debtor, or to take any Proceeding against such Executor or Representative; but it shall be competent to register such Bond or other Obligation after as before the Death of the Debtor, and to obtain an Extract of the Decree proceeding upon such recorded Bond or Obligation, containing Warrant to execute Diligence in the like Terms as during the Lifetime of such Debtor; and on an Affidavit by any Person to the Effect that such Debtor is deceased, it shall be lawful for the Sheriff, without the Form of any previous Charge, to cause Arrest at once upon such Extract, registered Bond or Obligation, or Extract Decree in the Hands of any Person indebted or supposed to be indebted to the Deceased, and also to poind the whole moveable Effects of the Deceased, in the like Manner and to the same Effect in every respect as if the Deceased were still in Life, and had been duly charged and the Charge had expired.

Bonds, &c. heretofore taken by Court of Exchequer may be taken by Sheriffs, &c.

XXXVII. In all Cases where, at the Date of *the passing of this Act*, any Bonds, Recognizances, or Securities are in Use to be taken by any Judge or Judges of the Court of Exchequer, such Bonds, Recognizances, and Securities may be taken by any Sheriff, Sheriff Substitute, or Justice of the Peace.

Bonds to Her Majesty to be held as containing a Clause of Registration.

XXXVIII. All Bonds or Obligations granted or that may be granted to Her Majesty, in the Form heretofore in Use in the Court of Exchequer in Scotland, shall be deemed and taken to be probative Documents, and shall have all the like Privileges, Operation, and Effect as if duly executed and attested according to the Law of Scotland; and all Bonds or Obligations granted or that may be granted to Her Majesty, albeit not containing any Clause of Registration, shall be capable of Registration in the Books of Council and Session, or other Judges Books competent, and to have a Decree interponed thereto, and to be extracted with a view to Execution, in the like Manner as if a formal Clause of Registration had been contained therein; and all Diligence and Execution shall be competent thereon in the like Manner and to all Effects as upon any Bond containing such formal Clause of Registration: Provided, that where any such Bond or Obligation shall be for a penal Sum, stipulated to be paid in the event of Payment not being duly made of a smaller Sum of Money conditioned in such Bond or Obligation, Diligence and Execution shall proceed on the Extract of such Bond or Obligation only for Payment of such smaller Sum, conditioned as aforesaid, and the Consequents thereof.

Where a Bond to Her Majesty is not for a specific Sum, Sum may be supplied by an Account stated and certified, on which Diligence may proceed.

XXXIX. In the event of the Sum due under any Bond or Obligation to Her Majesty on which Diligence may competently proceed under this or any other Act not being set forth specifically therein, a stated Account of the Sum due under it, having annexed to it a Certificate signed by any Officer of the Revenue, in the Form as nearly as may be of the Schedule M. hereunto annexed, recorded along with such Bond or Obligation, shall be sufficient to ascertain the Sum due under such Bond or Obligation; and the Extractor shall, in extracting the Decree proceeding upon such Bond or Obligation, make the Warrant of Charge and for Diligence to be contained in such Extract applicable to the Sum in the said stated Account, in the like Manner in all respects as if such Sum in the said stated Account had been actually specified in such Bond or Obligation, and thereupon all Diligence and Execution shall proceed as if it had been so specified.

Porvision for recovering in Scotland

XL. Where any Duty shall have accrued due to Her Majesty in any Part of the United Kingdom furth of Scotland, and the Person owing

Duties accruing in other Parts of the United Kingdom.

owing such Duty shall be subject to the Jurisdiction of the Scotch Courts, it shall be competent to proceed in Scotland against such Person for the Recovery of such Duty in the like Manner as if such Duty had accrued due in Scotland; and all Evidence that such Duty is resting owing, which would by any Law or Statute have been receivable in such other Part of the United Kingdom, shall be receivable in Scotland, and with such and the like Effect and Operation in every respect as would attach to such Evidence in such other Part of the United Kingdom, or to any similar Evidence in Scotland.

Jurisdiction of Sheriffs and Justices in Exchequer Cases saved.

XLI. Nothing in this Act contained shall operate to prevent the Exercise by any Sheriff or Justice of the Peace in Scotland of any Jurisdiction at present competent to such Sheriff or Justice respectively.

Preference of Crown over other Creditors not to be affected.

XLII. Nothing in this Act contained shall impair, injure, or affect any Preference of the Crown in competition with other Creditors; and in all Questions of Preference or Competition, the Execution of any Charge at the Instance or on the Behalf or for Behoof of the Crown, and in the Case of deceased Crown Debtors to whom no such Charge has been given in their Lifetime, the Execution of any Arrestment or Poinding at the Instance or on the Behalf or for Behoof of the Crown, shall be deemed and taken to be equivalent in all respects to the Teste of a Writ of Extent, according to the existing Law and Practice.

16 Vict. c. 20. s. 1. not to extend to Revenue Cases.

XLIII. The First Section of the Act of the Sixteenth Year of Her present Majesty, Chapter Twenty, shall not be deemed to apply to any Cause to be instituted under this Act relating to the Customs or Inland Revenue.

Lord President, Lord Advocate, and Lord Ordinary in Exchequer Causes empowered to make Orders and Regulations to facilitate Procedure.

XLIV. The Lord President of the Court of Session, the Lord Advocate, and the Lord Ordinary in Exchequer Causes, and any Two of them, shall have Power to frame Orders and Regulations, from Time to Time, with a view to carry into Execution the Purposes of this Act, and to remove any Difficulties which may be found to arise in applying to the Extent contemplated by this Act the Forms and Practice of the Court of Session to Exchequer Proceedings; provided that such Orders and Regulations shall not be inconsistent with the Provisions of this Act, and that within *Fourteen* Days from the Commencement of every future Session of Parliament there shall be transmitted to both Houses of Parliament Copies of all Orders and Regulations framed as aforesaid, under the Powers herein given, not previously transmitted to Parliament.

Offices of Attornies, or Sworn Clerks and Macers in Exchequer, &c., abolished.

XLV. The Offices of Attornies or Sworn Clerks, and Macers of the Court of Exchequer as at present constituted are hereby abolished; and also all other Offices in the said Court, in so far as the same relate to any Duties attached to such Offices connected with the issuing of Writs, Process, and Diligence, and the Duties of Clerk of Court.

Compensation.

XLVI. It shall be lawful for any Person who conceives that he is entitled to Compensation for Loss to be suffered through the Operation of this Act to make Application to the Commissioners of Her Majesty's Treasury for the Time being claiming such Compensation; and it shall be lawful for the said Commissioners to investigate such Claim, and to call for such Evidence in relation thereto as they may think necessary; and upon such Claim being established to their Satisfaction, the said Commissioners are hereby authorized and empowered to award to such Person such Compensation as they shall think him entitled to, either by the Payment of a given Sum or by way of Annuity, as they shall think proper; and such Compensations shall be paid out of any Monies which may from Time to Time be voted by Parliament for that Purpose; provided that a Copy of every such Award of Compensation shall be laid before both Houses of Parliament within *Ten* Days from the Date thereof, if Parliament shall be then sitting, and if not, then within *Ten* Days after the Commencement of the Session of Parliament next ensuing, and no such Award shall be final and conclusive until *Two Months* after the same shall have been so laid before Parliament: Provided also, that if any Person to whom Compensation shall be so awarded by way of Annuity shall be afterwards appointed to any Public Office, such Compensation shall be accounted pro tanto of the Salary payable to such Person in respect of such Office while he shall continue to hold the same.

Interpretation.

XLVII. In construing this Act the following Words and Expressions shall receive the Meaning after assigned to them: The Expression "Lord Ordinary," shall mean the Lord Ordinary in Exchequer Causes to be appointed under this Act; the Word "Cause" shall comprehend Action, Suit, Prosecution, Process, and Proceeding; the Word "Person" shall comprehend Tribunal and public and private Company, and corporate and public and other Body, as well as the individual Members of such Tribunal, Company or Body; the Word "Decree" shall comprehend Act, Order, Warrant, Interlocutor, and Judgment; the Expression "Rentcharge" shall comprehend Debt, Rent, and Duty; and the Word "Penalty" shall comprehend Fine and Forfeiture.

XLVIII. All Laws, Statutes, Usages, Acts of Sederunt, and Rules and Regulations of Court now in force shall be and the same are hereby repealed, in so far as may be necessary to give Effect to the Provisions of this Act, and no further or otherwise.

Repeal of Acts, &c.

XLIX. This Act shall take effect from and after the *Day of* *One thousand eight hundred and fifty-six.*

Act to take effect.

SCHEDULES referred to in the foregoing Act.

SCHEDULE A.

SUBPŒNA.

[*Name and Designation of Party.*]

You are hereby required to appear before the Lord Ordinary in Exchequer Causes in the Court of Session at Edinburgh, on the Fourteenth Day next after the Date of Service of this Subpœna, to answer to an Information then to be presented at the Instance of the Lord Advocate, on the Behalf of Her Majesty against you, [*and, when the Information is to be laid under an Act of Parliament, add,*] under the Act [*name Act of Parliament imposing the Penalty or Duty claimed, or under which the Debt is sought to be recovered.*] Given at Edinburgh, this day of Eighteen hundred and years.

(Signed) *A. B.*

Depute [*or* Assistant] Clerk of Session.

SCHEDULE B.

INFORMATIONS.

1. *Spirits.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

1*st Count,*—That on the Day of in the Year there was found in the Distillery of *A.* [*design him,*] commonly called the Distillery, in the County of , and not in the Mash Tun or Wort Underback in such Distillery, Gallons of Wort or Wash, the Gravity whereof did exceed by more than Three Degrees, that is to say, by Fifteen Degrees in Cooler No. 1, by Fifty-five Degrees in Back No. 2, by Sixteen Degrees in Back No. 3, the particular Gravity which had been specified in a Notice in Writing delivered to the Supervisor or Surveyor in charge of the Distillery of him the said *A.* Contrary to the Statute 4th Geo. IV. Cap. 94. Sect. 44. Whereby the said *A.* has forfeited the Sum of £200.

2*d Count,*—That on the Day of in the Year there was found in the said Distillery of the said *A.*, and not in the Mash Tun, or Wort Underback in such Distillery, 100 Gallons of Wort or Wash, the Gravity whereof did exceed by Fifty-four Degrees, or, at least, by more than Three Degrees, the particular Gravity which had been specified in a Notice in Writing in that Behalf, delivered to the Supervisor or Surveyor in charge of the Distillery of him, the said *A.* Contrary to the Statute 4th Geo. IV. Cap. 94. Sect. 44. Whereby the said *A.* has forfeited the Sum of £200.

3*d Count,*—That on the Day of in the Year in the Distillery of the said *A.*, commonly called Distillery, of the said *A.*, 9,211 Gallons of Wort or Wash, which had not been collected in the Wort Receiver, and the Quantity and Gravity whereof had not been declared, as in the Statute in that Behalf made is required and directed, was conveyed into and collected in a Fermenting Back, No. 1 Back, in the said Distillery, but was not so conveyed and collected within the Space of Six Hours after the Running and Conveyance of such Wort or Wash had commenced. Contrary to the Statute 4th Geo. IV. Cap. 94. Sect. 48. Whereby the said *A.* has forfeited the Sum of £200.

4*th Count*,—That the said *A.*, being a Distiller, on the Day of in the Year , and on Three other Days between that Day and the Day of , in the Distillery of the said *A.*, One hundred Gallons of Wort or Wash, which had not been collected in the Wort Receiver, and the Quantity and Gravity of which had not been declared, as in the Statute in that Behalf made is directed, and which was intended to be run and conveyed into a Fermenting Back of him the said *A.*, as such Distiller, was conveyed into and collected in a Fermenting Back in the said Distillery; yet the said *A.* did not, on any or either of the said last-mentioned Days, immediately and without Delay, deliver to the proper Officer in that Behalf a Declaration in Writing, specifying the several Particulars in reference to the said Wort or Wash, in Terms of the Statute. Contrary to the Statute 4th Geo. IV. Cap. 94. Sect. 48. Whereby the said *A.* has, for each of his said Offences, forfeited the Sum of £200, amounting in the whole to the Sum of £800

5*th Count*,—That on the Day of in the Year , at the Place aforesaid, the said *A.* did remove, and send with a Permit, a lesser Quantity of Spirits than the Quantity specified and described in the said Permit. Contrary to the Statute 2d Will. IV. Cap. 16. Sect. 13. Whereby the said *A.* has forfeited the Sum of £500.

6*th Count*,—That on the Day of in the Year , at the Place aforesaid, the said *A.* did utter a certain false and untrue Request-note to an Officer of Excise, for the Purpose of falsely and fraudulently obtaining a Permit with and for certain Spirits. Contrary to the Statute 2d Will. IV. Cap. 16. Sect. 13. Whereby the said *A.* has forfeited the Sum of £500.

7*th Count*,—That on the Day of in the Year the said *A.* did knowingly and willingly give a false and untrue Permit with and for certain Spirits. Contrary to the Statute 2d Will. IV. Cap. 16. Sect. 13. Whereby the said *A.* has forfeited the Sum of £500.

8*th Count*,— That on the Day of in the Year a Quantity of Spirits was removed from the Distillery of the said *A.*, he the said *A.* then and there being a Distiller licensed under the Statutes in that Case made and provided, in the Quantity of Two Gallons and One Half Gallon, or at least a less Quantity than Nine Gallons. Contrary to the Statute 4th Geo. IV. Cap. 94., Sect. 120. Whereby the said *A.* has forfeited the Sum of £200.

[*To be Signed by the Lord Advocate or Counsel.*]

Note.—Each Count in this and any other Information may, if thought proper, be made itself a separate Information.

2. *Malt.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

1*st Count*,—That on the Day of in the Year , within the Parish of and County of , *A.*, then and there being a Maltster and Maker of Malt, did remove, carry, and send away about Four Bushels of Malt from the Building and Place where the same had been made, before the said Malt had been taken account of and charged with Duty by the proper Officer of Excise, or did fraudulently deposit, conceal, and convey away from the Sight of the Officers of Excise about Four Bushels of Malt and of Corn and Grain making into Malt. Contrary to the Statute 7th and 8th Geo. IV. Cap. 52, Sections 40 and 41. Whereby the said *A.* has forfeited the Sum of £200.

2*d Count*,—That at the Time and Place aforesaid the said *A.*, then and there being a Distiller and Maker of Low Wines and Spirits, making Entry as a Maltster and Maker of Malt for the sole Purpose of being consumed in distilling Low Wines and Spirits from Malt only, did take about Four Bushels of Malt off the Kiln without having given such Notice as in the Statute 7th and 8th Geo. IV. Cap. 52., Sect. 68. is required. Contrary to the said Statute. Whereby the said *A.* has forfeited the Sum of £50.

3*d Count*,—That at the Time and Place foresaid the said *A.* did resist, oppose, molest, obstruct, and hinder a Person employed in the Revenue of Excise in the due Execution of a Power and Authority conferred upon him by the said Statute 7th and 8th Geo. IV. Cap. 52. Sect. 9. Contrary to the said Statute. Whereby the said *A.* has forfeited the Sum of £300.

4*th Count*,—That at the Time and Place foresaid the said *A.* did molest, obstruct, and hinder a certain Person employed in the Revenue of Excise in the Seizure of Malt. Contrary to the Statute 7th and 8th Geo. IV Cap. 53. Sect. 39. Whereby the said *A.* has forfeited the Sum of £200.

3. *Licence.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That on or about the Day of Eighteen hundred and at in the County of , *A.* [*design him*], being a Maltster [*or* Distiller, *or* as the Case may be], did make and manufacture Malt [*or* Spirits, *or* as the Case may be], for the making and manufacturing [*or* did exercise and carry on the Trade or Business of a , for the exercising and carrying on] of which a Licence was by Statute required, without taking out such Licence. Contrary to the Act 6 Geo. IV. Cap. 81. Sect. 26. Whereby the said *A.* has forfeited the Sum of £ .

4. *Entry.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That, on or about the Day of Eighteen hundred and at in the County of , *A.* [*design him*], a Person carrying on the Trade or Business of [*specify it*], under or subject to certain Laws of Excise, did make use of a House [*or* Building, *or* Vessel, *or*

Utensil, *or* as the Case may be], for the making of [*or* for the retailing *or* Storing, *or* as the Case may be], Spirits [*or* Malt, *or* as the Case may be]; of which House [*or* as the Case may be], Entry was by Statute required to be made; without having made Entry thereof by delivering such true and particular Account thereof as by Law is required, to the Officer of Excise in whose Survey such Place was intended to be used as aforesaid. Contrary to the Statute 4 & 5 Will. IV. Cap. 51. Sect. 6. Whereby the said *A.* has forfeited the Sum of £200.

5. *Concealing Goods.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That *A.* [*design him*] on or about the Day of , Eighteen hundred and at in the County of did remove, deposit, or conceal, or was concerned in removing, depositing, or concealing, certain or other Goods and Commodities, being of the Value of £ , for or in respect whereof a Duty of Excise was and is imposed, with Intent to Defraud Her Majesty of the said Duty. Contrary to the Statute 7 & 8 Geo. IV. Cap. 53. Sect. 32. Whereby the said *A.* has forfeited the Sum of £ being Treble the Value of the said Goods and Commodities, which the Commissioners of Excise have elected to take in lieu of the Penalty of £100.

6. *Not cancelling Permit.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on behalf of Her Majesty, inform the Court,—

1*st Count.* That at the Time of committing the several Offences after mentioned, *A.* [*design him*] was a Dealer in [*or* Retailer] of Spirits, and, as such, had provided himself with a Book, as prescribed by the Act 11 and 12 Vict. Cap. 121, for the Purpose of entering therein such Particulars relating to Spirits to be received into his Stock, Custody, and Possession as by the said Act Dealers in [*or* Retailers of] Spirits were and are required to make due Entries of: And that the said *A.* did, on or about the Day of Eighteen hundred and at in the County of , receive into his Stock, Custody, and Possession, Fifty Gallons, or other large Quantity of Spirits: Yet the said *A.* did not, at any Time on the said Day on which the said Spirits were so received by him, make, or cause to be made, due Entries in his said Book, of the several Particulars by the said Act required to be entered therein relating to the said Spirits. Contrary to the said Statute. Whereby the said *A.* has incurred the Penalty of £100.

2*d Count,*—That the said A., being a Dealer in [*or* Retailer of] Spirits, did, on or about the Day of Eighteen hundred and , at in the County of receive Fifty Gallons or other large Quantity of Spirits, which were, at the Time when they were so received by him, accompanied by a true and lawful Permit [*or* Certificate]; and the said *A.* did then and there receive such Permit [*or* Certificate] with the said Spirits; yet the said *A.* did not, immediately on receiving the same, cancel such Permit [*or* Certificate] in the Manner directed by the said Statute, so as to prevent the same from being again used for the Removal of Spirits. Contrary to the said Statute. Whereby the said *A.* has incurred the Penalty of £50.

7. *Private Still.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That on or about the Day of Eighteen hundred and , at in the County of , *B.* and *C.*, Officers of Excise, did discover and seize a certain private or concealed Still for making Spirits, in a certain House, [*or* Place, *or* as the Case may be], in which the same had been or was then set up or kept by *A.* [*design him*], or other Person to Her Majesty's Advocate unknown, not licensed to that Effect: And the said Still was not, within Ten Days after such Seizure, claimed by any Person as the Owner thereof: And the said *A.* was the Proprietor of the said Still, or the same was found in his Custody. Contrary to the Statute 3 Geo. IV. Cap. 52. Sects. 13. and 14.: Whereby the said *A.* has forfeited the Sum of £200 for the said Place in which said Still was found, and the further Sum of £200 for the said Still.

8. *Seizure.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That *B.*, Officer of Excise, on or about the Day of in the Year , at in the County of , did seize and arrest to the Use of Her Majesty, s forfeited, 100 Bushels of Malt or thereby, in respect,—

1*st. Count*,—That the said Malt was, by a Person to Her Majesty's Advocate unknown, fraudulently deposited, concealed, or conveyed away from the Sight of the Officers of Excise. Contrary to the Statute 7 and 8 Geo. IV. c. 52. Sec. 40. Whereby the said Malt became forfeited.

2*d Count*,—That the said Malt was in the Custody or Possession of a Person to Her Majesty's Advocate unknown, the same being Malt which had been removed, carried, or sent away from the Building and Place where the same had been made, before the said Malt had been taken account of and charged with Duty, such Person knowing the same to have been so removed, carried, or sent away. Contrary to the Statute 7 and 8 Geo. IV. C. 52. Sec. 41. Whereby the said Malt became forfeited.

3*d Count*,—That on or about the Day of in the Year , at in the County of , the said Malt, being Goods and Commodities for and in respect whereof a certain Duty of Excise was imposed, was removed or deposited or concealed, with Intent to defraud Her Majesty of such Duty, or of a certain Portion thereof. Contrary to the Statute 7 and 8 Geo. IV. C. 53. Sec. 32. Whereby the said Malt became forfeited.

9. *Customs.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

1*st Count*,—That on or about the Day of in the Year , in the County of , *A.* [*design him*], Grocer and Spirit Dealer, was knowingly concerned in conveying, removing, depositing, concealing, or dealing with 80 Pounds Weight or thereby of Tobacco, or other Goods, liable to Duties of Customs, with Intent to defraud Her Majesty of the Duties thereon. Contrary to the Statute 16 and 17 Vict. Cap. 107. Secs. 232. and 263. Whereby the said *A.* has forfeited the Sum of £ , being Treble the Value of the said Tobacco or other Goods, for which the Commissioners of Customs have elected to sue.

2d Count,—That on or about the Day of in the Year , at in the County of , the said *A.* did carry, convey, or conceal, or was aiding, assisting, or concerned in the carrying, conveying, or concealing of 80 Pounds Weight or thereby of Tobacco, then and there liable to Forfeiture under the Act 16 and 17 Vict. Cap. 107. Secs. 209. 234. and 263. Contrary to the said Statute. Whereby the said *A.* has forfeited the Sum of £ , being Treble the Value of the said Tobacco, for which the Commissioners of Customs have elected to sue.

10. *Legacy Duty.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That on the Day of in the Year *A.* [*design him*] was indebted to Her Majesty in the Sum of £ , by virtue of the Statute 55 Geo. III. Cap. 184. Schedule, Part 3, inasmuch as *B.* [*design him*], deceased, by certain Testamentary Instruments, gave to *C.* the clear Residue of the Monies to arise from the Sale and other Disposition of certain heritable Estates of the said *B.* by the said Testamentary Instruments directed to be sold or otherwise disposed of: That on the Day of in the Year , at in the County of , the said *B.* died, without revoking or altering the said Testamentary Instruments as to the said Residue so given as aforesaid: That the said clear Residue was more than the Value of £20: That the said *A.* was a Trustee to whom the said heritable Estate, out of the Monies to arise for the Sale, or other Disposition, of which the said clear Residue so given was to be paid or satisfied, was devised; and being such Trustee, he retained, for the Benefit of the said *C.*, the Sum of £ , or thereby, a Part of the said clear Residue, on which Part thereof the Duty which was chargeable was the said Sum of £ ; and the said *A.* did not, before retaining as aforesaid, first pay the said Duty to Her Majesty. Contrary to the said Statute. Whereby the said *A.* is indebted and liable to pay to Her Majesty the said Sum of £ .

11. *Inventory Duty.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That on the Day of in the Year , *A.* [*design him*] was indebted to Her Majesty in the Sum of £ , by virtue of the Statutes 48 Geo. III. Cap. 149. Sec. 38. and 55 Geo. III. Cap. 184. Schedule, Part 3., for Double the Amount of Stamp Duty which would have been payable by the said *A.*, upon a certain Inventory of the Personal and Moveable Estate and Effects, in Scotland, of the Value of £ , or thereby, of *B.* [*design him*], who died after the 1st Day of January 1842, that is to say, on or about the Day of , in the Year , which Inventory the said *A.*, although he had intromitted with and entered upon the Possession and Management of the said Estate and Effects more than Six Calendar Months before the said Day of in the Year , and ought before that Day to have exhibited such Inventory in the proper Commissary Court in Scotland, neglected to exhibit within the Time prescribed for that Purpose. Contrary to the said Statutes. Whereby the said *A.* is indebted to Her Majesty in the said Sum of £ .

12. *Succession Duty.—(Heritable Property.)*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That *A.* [*design him*] became beneficially entitled upon the Death of *B.*, on the Day of in the Year , to certain Heritable or Real Property, situated in the County of , in Possession, or to the Receipt of the Income or Profits thereof, for a Period not less than the Residue of his Life: That the annual Value, after Allowance of all necessary Outgoings of the said Property, was £ : That the Value of the said Succession, in Terms of the Statute 16 & 17 Vict. Cap. 51., amounted to the Sum of £ , and the Duty payable thereon to the Sum of £ : That the said Duty was payable by Eight Half-yearly Instalments, and the Periods when the First and Second Half-yearly Instalments of the same were payable are past, and the said Instalments have not been paid to Her Majesty: That the said Instalments of Duty were finally ascertained on the Day of ; and the said *A.* has wilfully neglected to pay the same within Twenty-one Days from the said Date when such Duty was so ascertained. Contrary to the Statute 16 & 17 Vict. Cap. 51. Whereby the said *A.* became indebted to Her Majesty in the Sum of £ , being the Amount of the said First and Second Instalments of Succession Duty; and liable to pay to Her Majesty the Sum of £ of Penalty, for Neglect as aforesaid of Payment of said Instalments, and a like Sum of £ for every Month after the First Month during which such Neglect has continued and shall continue.

13. *Succession Duty.—(Personal Property.)*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That *A.* [*design him*] became beneficially entitled, upon the Death of *B.*, on the Day of Eighteen hundred and , to a certain Sum of Money, amounting to £ : That the said *B.* obliged himself, by the antenuptial Marriage Contract entered into between him and his Wife, to pay, Six Months after his Death, to the Child or Children of the said Marriage, the said Sum; and the said *A.* is the only Child of the said Marriage: That the said *A.* became entitled in Possession to the said Succession, or to the Receipt of the Income thereof, upon the Day of Eighteen hundred and , and the Succession Duty thereon was then payable: That the said Duty amounts to the Sum of £ , and has not been paid to Her Majesty: That the said Duty was finally ascertained on the Day of Eighteen hundred and , and the said *A.* has wilfully neglected to pay the same within Twenty-one Days from the said Date when such Duty was so ascertained. Contrary to the Statute 16 & 17 Vict. Cap. 51. Whereby the said *A.* became indebted to Her Majesty in the said Sum of £ , being the Amount of the said Succession Duty; and liable to pay to Her Majesty the Sum of £ of Penalty for Neglect of Payment of said Duty, and a like Sum of £ of Penalty for every Month after the First Month during which such Neglect has continued and shall continue.

14. *Crown Teinds.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

1*st Count*,—That on the Day of in the Year *A.* [*design him*] was indebted to Her Majesty in the Sum of £ , due and owing by him for the Teinds of the Lands of , in the County of , after Deduction of Stipend payable therefrom, which Teinds belong to Her Majesty for the Crops of the Years and , and intervening Crops.

2*d Count*,—That the said *A.*, on the Day of in the Year , was indebted to Her Majesty in the further Sum of £ , due and owing by him for Interest upon Money due by him to Her Majesty.

15. *Promissory Note.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the behalf of Her Majesty, inform the Court, That on the Day of in the Year *A.* [*design him*] did make, sign, and issue a certain Promissory Note for the Payment of a Sum of Money amounting to Five Pounds, and not exceeding One hundred Pounds, in another Manner than to the Bearer on Demand, liable to the Payment of Stamp Duty charged by the Statute 17th & 18th Vict. Cap. 83., without the same being first duly stamped or marked with the proper Stamp or Mark as by Law is directed, that is, a Promissory Note, bearing Date the Day of in the Year , for the Payment Months after Date, to the Order of *B.*, of the Sum of £ , or some other Promissory Note, liable to a Stamp Duty of , without the same being first duly stamped or marked with the Stamp or Mark indicating the Payment of the said Duty, contrary to the Statutes 55 Geo. III. Cap. 184., 17th & 18th Vict. Cap. 83., and other Statutes, whereby the said *A.* has forfeited the Sum of £50.

16. *Receipt Stamp.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That on or about the Day of in the Year *A.* [*design him*] did write and sign or cause to be written and signed a certain Receipt or Discharge, given for and upon the Payment of a Sum of Money amounting to Two Pounds and upwards, that is to say, £ , liable to the Payment of Stamp Duty charged by the Act 16th & 17th Vict. Cap. 69., upon a Piece of Paper, without the same being first stamped, and marked with the Stamp and Mark impressed upon the Paper, and without having the adhesive Stamp affixed thereto, as by Law is directed, contrary to the Statutes 35 Geo. III. Cap. 55., and 16th & 17th Vict. Cap. 59., and other Statutes, whereby the said *A.* has forfeited the Sum of £10 [*or* £20.]

17. *Attorney Certificate Duty.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That at in the County of , between the Day of in the Year of and the Day of the Lodging of this Information, *A.*, in the County of , Writer, did, in his own Name, and he, the said *A.*, not being then entitled to any special Exemption from the Duties on such Certificates, did for and in Expectation of Gain, Fee, and Reward, commence, carry on, and defend a certain Action, Suit, and Proceeding in a certain Court in Scotland as a Solicitor, Attorney, and Procurator, and Agent of the said Court, without then and there having first duly obtained a proper stamped Certificate in the Manner in the Statute directed, contrary to the Statute 9 Geo. IV. Cap. 49. Sec. 9., whereby the said *A.* has forfeited the Sum of £50.

18. *Post Horse Duty.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That on the Day of in the Year , at in the County of , *A.*, having a Licence to keep at One Time to be let for Hire One Horse, did keep to be let for Hire Two Horses, and that the said Two Horses was a greater Number of Horses than he was by the foresaid Licence authorized to keep at One Time to be let for Hire. Contrary to the Statute 16th & 17th Vict. Cap. 88., Sec. 15 Whereby the said *A.* has forfeited the Sum of £100.

SCHEDULE C.

VERDICT.

The Jury find for the Queen; *or*

The Jury find for the Defender; *or*

The Jury find for the Queen [*or*, the Defender,] on the First Count; and for the Defender [*or* the Queen] on the Second Count [*or* as the Case may be].

[*To be written on the Information, and signed by the Clerk of Court.*]

SCHEDULE D.

APPRAISEMENT OF SEIZURE.

Date of Seizure.	Officers' Names by whom seized.	Where seized.	For what Cause seized.	Species and Quantity of Goods seized.	Value appraised at		
					£	s.	d.
			Total	- - £			

I [*Name and Designation*] hereby certify, That the foregoing Appraisement made by me, in order to be returned to the Court of Session as the Court of Exchequer in Scotland, is just and true, as to the Quantity, Quality, and Value of the Articles therein stated, and in all other Particulars, to the best of my

Knowledge. Dated at this Day of Eighteen hundred and .

[*To be signed by the Officer making the Seizure, or other Officer of the same Department of the Revenue.*]

SCHEDULE E.

CLAIM FOR SEIZURE.

Claim for Goods seized by [*Name and Designation*], Officer of Inland Revenue (Excise Branch), [*or* as the Case may be] at .

I [*Name*] Distiller, [*or* as the Case may be] residing at , declare that I am the Owner of the Goods contained in the Appraisement made by [*Name and Designation*], dated the Day of Eighteen hundred and , and I claim the same.

[*To be signed by the Claimant.*]

SCHEDULE F.

NOTE OF APPEAL.

Note of Appeal for *A.B.* [*design him*], Supervisor of Excise for [*or* as the case may be.]

In the Information in the Excise Branch of the Inland Revenue, [*or* the Stamps Branch of the Inland Revenue, *or* the Customs Branch of the Revenue, *or* as the Case may be,] at his Instance against *C.D.* [*design him*], before Her Majesty's Justices of the Peace for the County of

[*or,*]

In the Matter of the Warrant of Commitment of the said *A.B.*, granted upon the Application [*or* Certificate, *or* as the Case may be,] of *C.D.* [*design him*], issued by Her Majesty's Justices of the Peace for the County of [*or* the Sheriff of the County of , *or* as the Case may be].

The Appellant hereby appeals against a Judgment [*or* Warrant of Commitment, *or* as the Case may be,] of the said Justices, dated [*specify Date*], signed by and [*name the Justice or Justices by whom signed, and state that they are Justices.*]

In respect whereof, &c.

[*To be signed by any Solicitor of Revenue, or by any Agent before the Court of Session.*]

SCHEDULE G.

WARRANT TO BE SUBJOINED TO EXTRACTS OF EXCHEQUER DECREES IN FAVOUR OF THE CROWN.

And the said Lords command and charge all Sheriffs of Counties, and each of them, conjunctly and severally, to put this Decree in execution in manner under-written, that is to say, in Her Majesty's Name, to cause charge the said *A.* personally, or at his Dwelling Place, if within Scotland, and if furth thereof, by delivering a Copy of Charge at the Office of the Keeper of the Record of Edictal Citations, at Edinburgh, to make Payment of the foresaid Sum or Sums of Money, Principal, Interest, and Expenses, [*or* to implement and perform the foresaid Obligations, *or* both to pay and perform, as the Case may require,] all in Terms of and to the Effect contained in the Decree above written, and here referred to and held as repeated *brevitatis Causa;* and that to them the said Sheriffs, or One or other of them, on the Behalf of Her Majesty, within Six Days next after he is charged to that Effect, under the Pain of Poinding and Imprisonment; and also to cause arrest the said *A.*'s readiest Goods, Gear, Debts, and Sums of Money, in Payment and Satisfaction of the said Sum, Interest, and Expenses; and also to cause seize and detain the Books of Accounts, and other Books and Papers of the said *A.*; and if the said *A.* shall fail to obey the said Charge to be given to him as aforesaid, then to cause poind the readiest Goods, Gear, or other Effects of the said *A.*, and, if needful for effecting such Poinding, to cause open all shut and lockfast Places, in Form as Effeirs; and also, in the same Event, that the said *A.* shall fail to obey the said Charge, then to cause search for, take, and apprehend the Person of the said *A.*, and being so apprehended, to cause imprison the said *A.*, within a Tolbooth or other warding Place, therein to remain until he fulfil the said Charge, and if necessary for that Purpose to open shut and lockfast Places; and to grant Warrant also to the Magistrates and Keepers of Prisons to receive and detain therein the said *A.*

Extracted [*Specify Place and Date*] by
[*Extractor's Signature.*]

SCHEDULE H.

EXECUTION OF CHARGE AGAINST CROWN DEBTOR.

Upon the Day of I, , Messenger-at-Arms, [*or* Sheriff Officer,] by virtue of, [*state Nature and Date of Extract and Decree whereupon it proceeds*], at the Instance of on the Behalf of Her Majesty against *A.*, [*specify Name and Designation of Crown Debtor or Obligant,*] passed and in Her Majesty's Name and Authority lawfully charged the said *A.* to [*state what the Party has been charged to do; if to pay Money, specify the Sum, Interest, and Expenses; or if to fulfil an Obligation, specify it as in the Extract*], and that to *C.D.*, Sheriff of the County of , for the Behoof of Her Majesty, within Six Days next after the Date of my said Charge, under the Pain of Poinding and Imprisonment. This I did [*state Mode of Execution, whether personally or otherwise*], before and in presence of *E.*, Witness to the Premises.

[*Messenger's or Officer's Signature.*]
[*Witness's Signature.*]

SCHEDULE I.

CERTIFICATE OF REGISTRATION OF EXECUTION OF CHARGE IN SHERIFF COURT.

Presented by *A.B.*, [*Name and Designation,*] and registered in the particular Register of Hornings for the Shire of on the Day of

[*Keeper or Clerk's Signature.*]

SCHE-

SCHEDULE K.

WARRANT TO IMPRISON.

[*Place and Date.*]

The Charge being expired, and registered as per Execution and Certificate produced, grant Warrant to search for, take, and apprehend the Person of the said *A*, [*Name of Debtor or Obligant,*] and being so apprehended to imprison him within a Tolbooth or other warding Place, therein to remain until he fulfil the said Charge; and, if necessary for that Purpose, to open shut and lockfast Places; and Warrant also to Magistrates and Keepers of Prisons to receive and detain the said *A*. accordingly.

[*To be signed by Sheriff.*]

SCHEDULE L.

EXECUTION OF SEIZURE OF BOOKS AND PAPERS OF CROWN DEBTOR.

Upon the Day of , at within the County of , I, *J. H.*, Sheriff Clerk of the said County of , by virtue of a Warrant to that Effect, contained in [*specify the Extract in which Warrant contained and its Date*], have seized the Books and Papers belonging to *A*, [*name and design him*], specified in the following

Inventory.

[*Follows the Inventory.*]

the same having, on my Requisition to that Effect, been voluntarily handed over to me by the said *A*. [*or* by K. [*Name and Designation*], having the Custody thereof; *or* as the Case may be.]

or,

the same having been found by me in a Safe or Press in the House of the said *A*, at , to which I obtained Access by breaking open the Doors of the said House, and a Safe or Press therein, because I could not otherwise obtain Admittance thereto [*or* as the Case may be].

[*Signature.*]

Sheriff Clerk.

SCHEDULE M.

CERTIFICATE OF OFFICER OF REVENUE TO STATED ACCOUNT.

I [*Name and Designation*], being an Officer of Her Majesty's Revenue, hereby certify, That there is due to Her Majesty, in terms of the foregoing stated Account, under a Bond granted by [*Name and Designation*] to Her Majesty, dated the Day of , the Sum of . Dated at , this Day of Eighteen hundred and ,

[*Signature of Officer of Revenue.*]

Court of Exchequer (Scotland).

A

BILL

To constitute the Court of Session the Court of Exchequer in Scotland, and to regulate Procedure in Matters connected with the Exchequer.

(*Prepared and brought in by*
The Lord Advocate and Sir George Grey.)

Ordered, by The House of Commons, *to be Printed,*
2 *May* 1856.

[Bill 120.]

Under 4 *oz.*

23 *June* 1856. 19 & 20 Vict.

(Scotland.)

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Constitute the Court of Session the Court of Exchequer in Scotland, and to regulate Procedure in Matters connected with the Exchequer.

Preamble.

WHEREAS the Practice and Procedure in the Court of Exchequer in Scotland have been found inconvenient and troublesome, and it is expedient that the whole Power, Authority, and Jurisdiction at present belonging to the Court of Exchequer should be transferred to and vested in the Court of Session in Scotland, and that Provision should be made for the due Administration of Justice by the Court of Session in Exchequer Cases, and for all relative and necessary Proceedings in such Cases: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

The Court of Session to be the Court of Exchequer in **Scotland.**

I. The whole Power, Authority, and Jurisdiction at present belonging to the Court of Exchequer in Scotland, as at present constituted, shall be transferred to and vested in the Court of Session, and the Court of Session shall be also the Court of Exchequer in Scotland.

One of the Lords Ordinary in the Court of Session to be Lord Ordinary in Exchequer Causes.

II. It shall be lawful for Her Majesty, Her Heirs and Successors, from Time to Time to nominate and appoint One of the Lords Ordinary in the Outer House of the Court of Session to be Lord Ordinary in Exchequer Causes under this Act; and the Lord Ordinary to be so appointed shall, unless where otherwise expressly allowed by this Act, be the sole Lord Ordinary in all Causes to be instituted or carried through before the Court of Session by virtue of this Act, and shall continue to act as Lord Ordinary in all such Causes so long as he shall continue a Lord Ordinary in the Outer House, or until another Lord Ordinary shall be nominated as aforesaid to act as Lord Ordinary in Exchequer Causes in his Room and Stead; and, unless where otherwise expressly provided by this Act, all Proceedings in Exchequer Causes under this Act shall be brought in the first instance before such Lord Ordinary.

Lord Ordinary in Exchequer Causes may act in Vacation as well as during Session; and in his Absence any other Lord Ordinary may act in his Room.

III. It shall be competent to the Lord Ordinary in Exchequer Causes at any Time, as well in Vacation or Recess as during the Sittings of the Court of Session, and on any Day or Days of the Year, whether Sederunt Days of the Court of Session or not, to entertain and dispose of all Matters of a summary Nature, or which may appear to the Lord Ordinary to require Despatch, being within his Competency under this Act, and also to try any Cause under this Act, and to pronounce Judgment therein, and in case of the Absence or Inability of the Lord Ordinary, any Duties devolving on him under this Act may, during such Absence or Inability, be performed by any other Lord Ordinary of the Court of Session acting in his Room and Stead.

Clerks to the Lord Ordinary in Exchequer Causes to be Clerks in such Causes; and additional Salary granted.

IV. The Depute and Assistant Clerks of Session attached to the Lord Ordinary in Exchequer Causes shall be Clerks in all such Causes in the Outer House; and it shall be lawful for the Commissioners of Her Majesty's Treasury to grant to such Assistant Clerk of Session, in respect of the Increase of his Duties under this Act, an annual Allowance not exceeding Fifty Pounds per Annum, in addition to his ordinary Salary; and such Allowance shall be paid out of any Monies which may from Time to Time be voted by Parliament for that Purpose.

Exchequer Causes may be commenced by Subpœna.

V. It shall be competent to the Lord Advocate, on the Behalf of Her Majesty, to commence any such Cause by issuing or causing to be issued against the Defender a Subpœna in the Form, as nearly as may be, of Schedule A. hereunto annexed, which Subpœna may be served upon the Defender and Execution of Service returned in the like Manner as any ordinary Summons before the Court of Session may be served and Execution thereof returned; provided that such Service may be made either by a Messenger-at-Arms, or

Sheriff Officer, or by an Excise Officer or other Officer of the Department of Inland Revenue, or any Officer of the Customs.

Subpœna to be called in Court as a Summons, and Procedure thereon.

VI. On the Expiration of the Induciæ of any such Subpœna, such Subpœna may be called in the Court of Session, and thereafter enrolled, in the like Manner as any ordinary Summons; and the Lord Ordinary shall, at the Outset of the Cause, unless the Information to which such Subpœna relates be then produced and lodged in Process, pronounce an Interlocutor allowing such Information to be lodged in Process, and no further Proceeding shall take place until such Information be lodged; and upon such Information being lodged a Copy thereof shall be served upon the Defender, unless such Service shall have been previously made; and the Transmission of such Copy through the Post, addressed to his known Residence or Place of Business, shall be deemed sufficient Service; and a Certificate by any One Person, written on the Information itself and signed, bearing that a Copy thereof has been served upon the Defender, shall be primâ facie Evidence of such Service having been duly made; and after the Information shall have been served as aforesaid, the Lord Ordinary shall, if the Defender shall admit the Truth of the Information, or of such Part thereof as may be insisted in against him, or do not appear, give Decree in Terms of the said Information, so far as the same shall be insisted in; and if the Defender shall appear, and shall not admit as aforesaid, the Lord Ordinary shall appoint a Day for hearing the Parties upon such Information, where this may appear to him to be necessary, or shall appoint a Day for trying the Matters put in Issue by such Information, without any Adjustment of any separate Issue or Issues, or shall take such other Course as to him may seem proper; and where a Day shall be so appointed for Trial, a Common or Special Jury (where a Special Jury shall be applied for and granted) shall be summoned and empanelled, as in any ordinary Jury Cause before the Court of Session to be tried by a Lord Ordinary in the Outer House; and the Lord Ordinary in Exchequer Causes shall preside at such Trial, and at all other Trials of Exchequer Causes under this Act, unless in any particular Case, upon a special Request by such Lord Ordinary to that Effect to either of the Two Divisions of the Court of Session, another Lord Ordinary shall be appointed to preside in his Stead; and the Verdict of the Jury may be in one or other of the Forms in the Schedule C. hereunto annexed, or in such other Form as may be applicable to the Case; and on such Verdict being given the Lord Ordinary presiding at the Trial shall pronounce Decree in conformity therewith, and as may be just and according to Law.

Form of Information in Causes commenced by Subpœna.

VII. Every Information to be lodged in Terms of this Act shall be in the Form, as nearly as may be, of the Schedule B. hereunto annexed; and it shall be competent to the Lord Advocate, on the Behalf of Her Majesty, to amend his Information at any Time before Verdict; provided that no such Amendment shall be made by the Lord Advocate after a Day has been fixed for Trial, unless upon Payment to the Defender of his Expenses previously incurred: Provided also, that it shall not be necessary to mention in any Information any Act of Parliament other than the Act imposing any Penalty or Duty claimed, or creating any Debt sought to be recovered; and provided further, that, notwithstanding the Terms of any such Information, it shall not be incumbent to prove against the Defender, in order to recover under such Information, any Matters stated therein, except only such Matters as are by Law required to be proved in order to the Forfeiture of the Penalty, or the Recovery of the Duty or Debt, or the Condemnation of the Seizure sought for.

Special Case may be lodged where Parties agreed upon the Facts.

VIII. Where in any such Cause commenced by Subpœna as aforesaid the Parties shall be agreed upon the Facts, and shall dispute only on the Law, it shall be competent for them to lodge in Process a Special Case, signed by themselves or their Counsel, setting forth the Facts on which they are so agreed and upon which the Question of Law arises, and such Special Case shall be equivalent to a Special Verdict finding such Facts, and raising a Question of Law for the Lord Ordinary.

Procedure in Cases commenced by Subpœna, so far as not expressly provided, how to be regulated.

IX. The Procedure in all Cases commenced by Subpœna as aforesaid shall, in so far as not specially provided for by this Act, be regulated by the Lord Ordinary, subject to any Rules and Regulations to be framed as after mentioned, in such Way and Manner as to the Lord Ordinary shall seem proper and expedient; and, in so far as not so regulated, shall be conducted as nearly as may be in conformity with the Procedure before the Court of Session in ordinary Actions; provided that Protestation shall not be applicable to any such Cases, nor shall any Record require to be made up by Defences, or revised Condescendence and Defences, or to be closed; provided also, that no such Cases shall fall asleep, or require to be wakened; but when any Exchequer Cause shall have lain over for such Period after the passing of this Act as in the Case of any ordinary Action before the Court of Session would have rendered such ordinary Action a sleeping Process, such Exchequer Cause shall not be moved in by the Lord Ordinary or the Court until the Expiration of Ten Days from the Date of written Notice being given by the Pursuer or Defender to the opposite Party in the Cause that the Cause is to be further proceeded with.

Proceedings may be commenced by Summons in place of Subpœna; and Proce-

X. It shall be competent to the Lord Advocate, on the Behalf of Her Majesty, in place of proceeding by Subpœna and Information as herein-before provided, to commence any such Cause by a Summons in one or other of the Forms in Use in the Court of Session for the

Time being; and Proceedings may also be taken by Summons as aforesaid at the Instance of any Person or Persons alleging a Ground of Action against the Crown; and where such Cause shall be commenced by Summons, the whole Proceedings shall be conducted throughout as nearly as may be in the like Way and Manner as in Causes depending before the Court of Session, other than Exchequer Causes; and every such Summons to be raised on the Behalf of Her Majesty may contain Warrant to arrest on the Dependence; and all Diligence shall be competent upon every such Summons to be raised on the Behalf of Her Majesty, and upon any Warrant to arrest on the Dependence contained therein, and with such and the like Operation and Effect as upon any ordinary Summons, or Warrant to arrest on the Dependence contained therein before the Court of Session, according to the Law and Practice in Use in the said Court for the Time in ordinary Causes.

dure under Summons to be the same as in Ordinary Court of Session Cases.

Procedure in Cases of Seizure.

XI. Where any Seizure shall be made by any Officer entitled to make such Seizure, such Officer shall, at the Time of making such Seizure, where judicial Condemnation thereof shall be requisite, make an Appraisement of the Articles comprehended therein in the Form, as nearly as may be, of the Schedule D. hereunto annexed; and such Appraisement shall be lodged in the Office of the Clerk of Court attached to the Lord Ordinary, within Thirty Days after such Seizure, otherwise such Seizure shall lapse and cease to have effect; and such Appraisement of Seizure shall be included by the said Clerk of Court, and published in the Weekly Calling List of the Court of Session not later than Fourteen Days after being lodged with him as aforesaid; and a Claim for the Articles comprehended in such Seizure, or any of them, in the Form, as nearly as may be, of the Schedule E. hereunto annexed, may be lodged with the said Clerk of Court at any Time within Eight Days from the Date of the Calling of such Appraisement as aforesaid; and it shall be competent to the Lord Advocate, on the Behalf of Her Majesty, or to the Party claiming such Seizure, to enrol such Appraisement of Seizure in the Weekly Roll of Court of Session Causes at any Time after the Expiration of the said Eight Days; and at the calling of such Appraisement in the said Weekly Roll, if no Claim to such Seizure shall have been lodged, the Lord Ordinary shall pronounce Decree of Condemnation of such Seizure, and thereupon such Seizure shall belong to and be at the Disposal of the Crown; and if a Claim to such Seizure shall have been lodged as aforesaid, the Lord Ordinary shall pronounce an Order upon the Lord Advocate to lodge an Information of Seizure on the Behalf of Her Majesty; and, upon such Information of Seizure being lodged, the Procedure shall thenceforward be conducted, as nearly as may be, in the like Manner as in ordinary Causes commenced by Subpœna and Information, in Terms of this Act.

Procedure in lieu of Writs of Capias, &c.

XII. Where any Cause may, at the Date of the passing of this Act, be competently commenced before the Court of Exchequer by Writ of Capias, or where, at the Date of the passing of this Act, it is competent to apprehend the Defender or Person complained of, in order that he may find Security to appear and answer, or to pay the Penalties, Duties, or Debt sought to be recovered, it shall be competent to pray or conclude in any Information, Summons, or Proceeding to be raised under this Act for Warrant to apprehend such Defender or Person complained of; and such Warrant shall be granted by the Lord Ordinary on Production to him at any Time, whether during Session or not, of the Information or other Writ containing such Prayer or Conclusion, although the same may not have been served, or called, or enrolled; and in every such Case the Defender, or Person complained of, when apprehended, shall be bound with Two sufficient Sureties, to the Satisfaction of the Prosecutor or of the Lord Ordinary, to appear and answer in the Proceeding brought against him as aforesaid, and to pay the Penalties, Duties, or Debt sought to be recovered, if he shall be found liable therein, or such Sum or Sums as under such Proceeding he may be found liable to pay; and failing his finding such Security, the Lord Ordinary shall grant Warrant for detaining him in Prison, and he shall be detained in Prison accordingly, until such Security be found, or until the Issue of such Proceeding, or until he be liberated in due Course of Law.

Procedure in lieu of Writs of the Pipe.

XIII. In all Cases where, according to the Practice of the Court of Exchequer at the Date of the passing of this Act, any Rentcharges or Penalties may be levied by Process of the Pipe, it shall be competent for the Lord Ordinary in Exchequer Causes, and he is hereby required, upon the Production to him of a Certificate by any Person charged with the Recovery or Collection of such Rentcharges or Penalties, setting forth that any such Rentcharge or Penalty is due, and the Amount and other Particulars thereof, and the Party or Parties indebted therein, and that he has been unable to recover the same, to issue ex parte, and without the Form of any written Application, a Decree decerning and ordaining such Party or Parties to make Payment of such Rentcharge or Penalty; provided, that all Penalties which may be incurred in one County or Stewartry may be included in One Decree and Charge: Provided also, that any Charge to be given on such Decree, or any Diligence following thereon, may be brought under Suspension by the Party against whom the same is directed, but no such Suspension shall be competent before a Charge has been given.

Procedure in lieu of Injunction.

XIV. In all Cases in which, if occurring at the Date of the passing of this Act, any Person or Persons would be liable to be stayed by Injunction furth of the Court of Exchequer, whether in respect of such Person or Persons prosecuting or threatening to prosecute before any Court other than the Court of Exchequer in any Matters connected with the Revenue, or with the Proceedings of Officers of the Revenue, or in any other Matters as to which exclusive Jurisdiction is at present possessed by the Court of Exchequer, or otherwise, it shall be competent to apply to the Lord Ordinary in Exchequer Causes to restrain such Person or Persons by Interdict from following out such Prosecution in another Court or otherwise, according to the Circumstances of the Case; and such Application may be made by a Note of Interdict having a Statement of Facts and Note of Pleas in Law appended thereto, all as nearly as may be in the Form at present in Use in the Court of Session; and such Note of Interdict shall be lodged in the Office of the Clerk of Court attached to the said Lord Ordinary, and shall be forthwith submitted by such Clerk to the said Lord Ordinary, who may thereupon at once grant Interdict or at once refuse to grant it, or appoint such Note of Interdict in the first place to be served, and if need be to be answered, or Parties to be heard thereon with or without Answers, and may thereupon give Decree granting or refusing Interdict, or may take such other Course in regard to such Application for Interdict as to him may seem proper; provided, that where Interdict shall be granted as aforesaid with reference to any Cause requiring to be instituted within a limited Time, or which, if not instituted within a limited Time, may be competently objected to as not timeously brought, the Time which may have elapsed between the Date of the Service of such Interdict and the Date of the Institution of such Cause to which such Interdict relates, with Ten Free Days in addition thereto, shall be added to the Period limited as aforesaid, and such Cause shall be deemed and taken to be timeously brought, if instituted at any Time within such extended Period.

Procedure in lieu of Mandamus.

XV. In all Cases where, at the Date of the passing of this Act, it would be competent to apply to the Court of Exchequer for a Rule upon any Person or Persons to show Cause why a Mandamus should not issue against such Person or Persons, directing him or them to do any Act or to perform any Duty, and for such Court of Exchequer, failing such Cause being shown, to issue a Mandamus against such Person or Persons to the Effect aforesaid, it shall be competent to apply to the Lord Ordinary in Exchequer Causes by summary Petition, setting forth briefly the Facts on which the Application is based, for an Order on such Person or Persons decerning and ordaining him or them to do the Act, or to perform the Duty which he or they is or are refusing or neglecting to do or perform; and in the event of the Failure of such Person or Persons to conform and to implement the Terms of said Order, to pay conjointly and severally, or jointly, or otherwise

wise as to the Lord Ordinary may seem fit, such Sum or Sums of Money as may be reasonably demanded in respect of such Failure, and that either in lieu of or by way of Fine or Penalty over and above Performance; and the Lord Ordinary shall order Service of such Petition on such Person or Persons as he may deem proper, and may, if he sees fit, appoint Answers to be lodged to such Petition, or Parties to be heard thereon, with or without Answers, and may thereupon give Decree granting or refusing the Prayer of such Petition, or may take such other Course with regard thereto as to him may seem proper; provided that it shall be competent to the Lord Ordinary to prescribe what shall be deemed good Service of any Order, Interlocutor, or Decree which may be pronounced by him upon any Person or Persons who may be affected thereby.

Procedure on Affidavit of Danger.

XVI. Where in any Case any Officer of the Revenue shall make Affidavit that a Debt or Duty is due to the Crown by a Crown Debtor believed to be or to have died insolvent, and shall state in such Affidavit any reasonable Ground for such Belief, and that there is Danger of Loss to the Crown or Revenue with respect to such Debt or Duty, it shall be competent to the Lord Advocate, on the Behalf of Her Majesty, to present a summary Petition to the Lord Ordinary, setting forth that such Debt or Duty is resting owing, and that such Affidavit of Danger has been made, producing such Affidavit along with such Petition, and the Lord Ordinary may thereupon, without further Evidence or Inquiry, issue ex parte a Summary Act and Decree decerning and ordaining such Crown Debtor to make Payment of such Debt or Duty; provided that any Charge to be given on such Decree, or any Diligence following thereon, may be brought under Suspension by such Crown Debtor, or his Representatives, or any others in his Right; but no such Suspension shall be competent before such Charge has been given, or where the Crown Debtor is deceased before Arrestment has been used or Poinding executed.

Procedure in Lieu of Writs of Habeas and Certiorari.

XVII. In all Cases where, at the Date of the passing of this Act, a Writ of Habeas or a Writ of Certiorari might have competently issued from the Court of Exchequer to the Effect of removing any Proceedings before, or Warrant granted or issued by any Inferior Court or Magistrate or Public Officer to the said Court of Exchequer, in order to Examination, it shall be competent to the Party against whom such Warrant is directed, or to either of the Parties to such Proceedings, to bring up such Warrant or Proceedings to the Court of Session sitting as the Court of Exchequer, to the like Effect as by such Writ of Habeas or Writ of Certiorari before the passing of this Act, and that by lodging in the Office of the Clerk of Court attached to the Lord Ordinary in Exchequer Causes a Note of

Appeal, in the Form or as nearly as may be in the Form of the Schedule F. hereunto annexed; and such Note of Appeal shall be forthwith submitted by such Clerk of Court, in a summary Way to the Lord Ordinary, who may thereupon at once direct such Warrant or Proceedings to be transmitted to the Court of Session, or may at once refuse to give such Direction or to entertain such Appeal; or, if he sees fit, may order such Note of Appeal to be served upon the Inferior Magistrate or Magistrates, or Public Officer or Officers, or upon the opposite Party, or both, and them or either of them to lodge Answers to such Appeal; and may also, if he sees fit, order Parties to be heard upon such Note of Appeal, with or without Answers; and may thereupon pronounce such Orders or Decrees as he may deem proper upon the Matters raised by such Appeal; and in particular may either dismiss such Appeal, and remit back simpliciter the Warrant or Proceedings, or may give Decree quashing or setting aside the Warrant, or quashing or setting aside the Proceedings, in whole or in part, and may give such Directions to such Inferior Court, or Magistrate or Public Officer, with regard to his or their Proceedings, as may be just; provided that every Clerk of an Inferior Court or other Public Officer having in his Hands or under his Control any such Warrant or Proceedings shall, on receipt of a Copy certified by any Depute or Assistant Clerk of Session of any Interlocutor of the Court of Session or of the Lord Ordinary in Exchequer Causes, directing such Warrant or Proceedings to be transmitted to the Court of Session or to the Lord Ordinary, be bound forthwith to transmit such Warrant or Proceedings, with a proper Inventory thereof certified by him to be correct, to the Office of the Clerk of the Court of Session attached to the Lord Ordinary; and where any such Warrant or Proceedings so transmitted to the Court of Session or to the Lord Ordinary shall be remitted back, it shall be the Duty of the Clerk of the Court of Session to re-transmit the same to the Clerk of such Inferior Court or other Public Officer from whom they were received.

Duties of Court of Exchequer with reference to Crown Entries to be performed by Lord Ordinary in Exchequer Causes.

XVIII. The Duties heretofore performed by or incumbent on the Judges of the Court of Exchequer, under and by virtue of an Act passed in the Session of Parliament holden in the Tenth and Eleventh Years of the Reign of Her present Majesty, intituled "An "Act to amend the Practice in Scotland with regard to Crown "Charters and Precepts for Chancery," shall be performed by the Lord Ordinary in Exchequer Causes.

Duties of Court of Exchequer in Appointment of Tutors

XIX. The Duties heretofore performed by or incumbent on the Court of Exchequer with regard to the Nomination, Appointment, or Control of Tutors Dative shall be performed by the Court of Session

Dative to be performed by Inner Houses of Session.

acting as the Court of Exchequer in Scotland, upon Applications for such Nomination or Appointment to be made to either of the Divisions of the said Court by way of summary Petition; and the Procedure under such Petitions may be, as nearly as may be, the same as under other summary Petitions to the said Court, but may be regulated and varied from Time to Time in such Way and Manner as to the said Court may seem proper.

Interlocutors in Exchequer Causes may be reclaimed against, and appealed, as if pronounced in ordinary Court of Session Causes.

XX. All Interlocutors of the Lord Ordinary in Exchequer Causes shall be subject to Review of either Inner House of the Court of Session; and all such Interlocutors, and all Interlocutors of the Inner House in Exchequer Causes, shall be subject to Appeal to the House of Lords, in the like Manner, and to the same Extent and Effect, and under the same Rules and Regulations as any Interlocutor of a Lord Ordinary or of the Inner House in any ordinary Cause before the Court of Session.

Suspension, where competent, to be by Note in the Bill Chamber in common Form;

And when Note passed Case to depend before Lord Ordinary in Exchequer Causes.

XXI. Any Suspension may be competently brought at the Instance or on the Behalf of Her Majesty, or of any Subject, of any Decree, Charge, threatened Charge, or Diligence whatever in any Cause or Matter connected with the Exchequer, in the like Manner and to the same Extent and Effect as if such Decree, Charge, threatened Charge, or Diligence were in Causes or Matters connected with any ordinary Court of Session Process or Procedure; and the Application for such Suspension may be made in the Bill Chamber by Note of Suspension in ordinary Form, and the Proceedings under the same shall thereafter be conducted as in any ordinary Court of Session Process of the like Nature; provided that, on any such Note of Suspension being passed and enrolled the Lord Ordinary in Exchequer Causes shall be the Lord Ordinary in such Process.

The Lord Advocate to sue and be sued on behalf of Her Majesty.

XXII. All Causes which shall be brought on the Behalf of the Crown in Terms of this Act shall be at the Instance of the Lord Advocate on the Behalf of Her Majesty; and it shall be competent for any Person alleging any Ground of Action against the Crown, which at the Date of the passing of this Act was cognizable by the Court of Exchequer as at present constituted, to call the Crown, by calling the Lord Advocate as Defender or Respondent on the Behalf of Her Majesty; and all Interlocutors or Decrees which shall be pronounced in any such Cause shall be binding upon Her Majesty and Her Royal Successors as upon the other Parties thereto; and where in any such Cause any Decree shall be obtained against the Lord Advocate on the Behalf of Her Majesty, Payment of any Money contained in such Decree shall be made, and such Decree shall be otherwise implemented by the Commissioners of Her Majesty's

Treasury, or by such Board of Revenue or other Department as in the Opinion of the Lord Advocate ought properly to make such Payment or Implement; and the Person obtaining such Decree shall be entitled to demand from the Lord Advocate a Certificate of his Opinion accordingly, but shall not be entitled to put such Decree in farther Execution against the Lord Advocate.

Privilege of Audience preserved to the Crown.

XXIII. In all Causes which shall be brought under this Act the Lord Advocate shall, in pleading on the Behalf of the Crown, whether before the Court or a Jury, have the Privilege of being heard last, according to the present Practice of the Court of Exchequer.

Costs may be given for and against the Crown.

XXIV. In all Causes which shall be instituted under this Act before the Court of Session acting as the Court of Exchequer in Scotland, and in all Causes presently depending, or which shall come to depend, before any Civil Court in Scotland at the Instance or on the Behalf of the Crown, against any Person or Persons, or against the Crown at the Instance of any Person or Persons, the Crown, or the Lord Advocate or other Person or Persons suing on its Behalf, shall be entitled, when Decree shall be given for the Crown, to move for and recover Expenses of Process, in the like Manner as and under the like Rules, Regulations, and Provisions as are or may be in force touching Expenses of Process in Proceedings between Subject and Subject; and, where in any Cause, whether to be brought under this Act, or presently depending, or which may come to depend before any Civil Court in Scotland, Decree shall be given against the Crown, the Subject obtaining such Decree shall be entitled to move for and, if awarded, to recover Expenses of Process in the like Manner and subject to the like Rules, Regulations, and Provisions as aforesaid; and it shall also be competent to recover Expenses of Diligence to which the Crown is a Party in the like Manner and to the like Extent as such Expenses may be recovered in Cases between Subject and Subject.

Exchequer Causes to have Precedence of all others.

XXV. All Causes which shall be brought in Terms of this Act shall be deemed and treated as Summary Causes, and shall be denominated Exchequer Causes, and as such be placed at the Head of every Roll of Causes in which they appear, both in the Inner and Outer House, and shall at all Times take Precedence of and have Preference over all other Causes whatsoever.

Sittings of the Court of Session to be held to correspond with

XXVI. That Part of the Winter Sittings of the Court of Session which precedes the Christmas Recess, and that Part of such Sittings which follows such Recess, and the Summer Sittings of the Court of Session, existing Exchequer Terms.

Session, shall be held to correspond with the Terms heretofore observed in the Court of Exchequer.

Certified Copies of Interlocutors, equivalent to Extracts, except in order to Diligence.

XXVII. It shall not be necessary in any Cause to be instituted under this Act to extract any Interlocutor, Order, Act, or Warrant to be pronounced therein, unless for the Purpose of proceeding with Diligence thereon; and a Copy of any such Interlocutor, Order, Act, or Warrant, certified under the Hand of any Principal Depute or Assistant Clerk of Session to be a true Copy, shall be equivalent to a formal Extract thereof; provided that no Diligence shall proceed except upon a formal Extract.

Minute Book dispensed with as to Extracts of Exchequer Decrees; such Extracts to have Priority in the Extractor's Office; and such Extracts, and also Extracts of registered Bonds to Her Majesty, to be in ordinary Form; except that Warrant to charge to be in Form Scheduled.

XXVIII. All Decrees to be pronounced under this Act by either Division of the Court of Session, sitting as the Court of Exchequer, shall be extracted by the Extractor of the Court of Session without abiding the Expiration of the Days of the Minute Book, which are hereby dispensed with; and such Extractor shall give to all Extracts in Exchequer Causes Preference and Priority in the Preparation thereof over all other Business in his Office; and such Extracts, and also the Extracts of all Decrees proceeding upon Bonds, or other Obligations to Her Majesty, on which Execution may competently proceed, registered in the Books of Council and Session or in the Books of any Sheriff Court, shall be as nearly as may be in ordinary Form, so far as such Form may be consistent with the Provisions of this Act; except that in the Case of Extracts of Decrees proceeding upon Bonds and other Obligations to Her Majesty, registered as aforesaid, and also in the Case of Extracts of such Decrees as aforesaid decerning for Payment of any Penalty, Duty, or Debt due to Her Majesty, the Extractor shall insert in the Extract a Warrant to Sheriffs to charge and execute Diligence, in Terms as nearly as may be of the Schedule G. hereunto annexed, in lieu of the Warrant to charge and for Diligence in Use in ordinary Cases; and such Extract shall be a sufficient Warrant to any Messenger-at-Arms or Sheriff Officer to execute Charge, Arrestment, and Poinding in Terms thereof.

Exchequer Decrees to be put in Execution by Sheriffs.

XXIX. It shall be the Duty of every Sheriff to whose Hands any such Extract shall be intrusted for that Effect by any Public Officer on the Behalf of Her Majesty to put the same to Execution with all due Despatch, and to take all such lawful and proper Measures as by such Public Officer may be required, in order to enforce by means thereof, Payment of the Monies, if any, decerned for, and full Implement of the Decree; and it shall be lawful to any such Sheriff to recover and take Payment, on the Behalf of Her Majesty, of the Contents of any such Decree, and upon Payment or Implement in Terms thereof, in whole or in part, to discharge such Decree, but that only to the Extent to which Payment or Implement shall have been obtained by him as aforesaid; and every such Sheriff shall, on the Receipt by him of any Money on the Behalf of Her Majesty, under such Decree, be bound to account for and pay over the same to the Public Officer from whom he received the Extract as aforesaid, or to some other Public Officer or Department entitled to receive the same on the Behalf of Her Majesty.

Sheriff may arrest on Extract Decree; and such Arrestment shall transfer to the Crown the arrested Fund.

XXX. It shall be lawful for any Sheriff, by virtue of any such Extract, to cause Arrestment to be used thereon in the Hands of any Person in ordinary Form; and such Arrestment shall operate to transfer to the Crown, preferably to all other Creditors of the Crown Debtor, all Right to and Interest in the arrested Fund, competent to the Crown Debtor, to such Extent as may be requisite to satisfy and pay the entire Debt due to the Crown, including Interest and Expenses; and every Person in whose Hands any such Arrestment shall be used on the Behalf of Her Majesty shall be entitled, and be in Safety, to pay to such Sheriff on the Behalf of Her Majesty all Funds in his Hands at the Date of such Arrestment belonging to the Crown Debtor, to any Extent not exceeding the Amount of the Crown Debt with Interest and Expenses, without abiding the Institution of any Process of Furthcoming, or any Decree therein; and if such Payment be not made, it shall be competent to the Crown to follow up such Arrestment by Furthcoming, and also to pursue and do Diligence against the Party indebted to such Crown Debtor, to the full Extent of the Debt due by such Party, as if the Crown stood specially and lawfully assigned into the Debt so due, and into all Bonds, Bills, and Obligations held by the Crown Debtor therefor, and as if such Party were directly indebted to the Crown in the Debt so due: Provided that the Crown shall be accountable to the Crown Debtor, or those in his Right, for any Surplus to be realised by the Crown beyond the Amount of the Crown Debt, with Interest and Expenses.

Sheriff may charge Crown Debtor on Extract Decree;

Execution of Charge to be in Form scheduled.

XXXI. It shall be lawful for any Sheriff, by virtue of any such Extract, to cause charge the Crown Debtor therein mentioned to pay to him, the said Sheriff, for the Behoof of Her Majesty, the Sums of Money therein mentioned, or to perform the Obligations therein specified, within the Days of Charge therein prescribed with reference to such Crown Debtor from and after the Date of Charge, under the Pain of Poinding and Imprisonment; and the Officer executing the same shall return an Execution in Terms of the Schedule H. hereunto annexed, or as near to the Form thereof as Circumstances will permit.

Sheriff may Poind on Extract Decree.

XXXII. On the Expiration of the Days of Charge against the Crown Debtor, it shall be lawful for any Sheriff, by virtue of any such Extract as aforesaid, to cause poind the whole moveable Effects, without Exception, of such Crown Debtor, including Bank Notes, Money, Bonds, Bills, Crop, Stocking, and Implements of Husbandry of all Kinds, in or towards Payment of the Sums of Money therein mentioned; and such Poinding shall be carried through as nearly as may be in ordinary Form; except that it shall be lawful for the Officer executing such Poinding, where it is deemed expedient, to take Possession of the poinded Effects, and to place them in a Place of Security instead of leaving them with the Person in whose Possession they were when poinded; and, on the Execution of Poinding being reported, the Sheriff shall grant Warrant to the Sheriff Clerk to sell them in common Form; and if no Offerer appear at the Roup, the Effects, or such Part thereof as according to the appraised Value may satisfy the Debt, Interest, and Expenses due to Her Majesty, shall be retained by the Sheriff for Her Majesty's Behoof at such appraised Value, subject to such Directions as he may receive with regard to the Disposal thereof from the Public Officer from whom he received the Extract as aforesaid, or from any Public Officer or Department acting in the Matter on the Behalf of the Crown.

Poinding to be in ordinary Form; Except that Poinded Effects may be taken possession of; And, if no Offerer at Sale, Sheriff to retain them on Behalf of the Crown.

On Expiration of Charge, Sheriff may record the Extract and Execution of Charge.

XXXIII. It shall be competent to any Sheriff, at any Time within Year and Day after any such Charge has expired, to cause any such Extract, and the Execution of Charge thereon, to be presented to the Sheriff Clerk of the County in which such Charge was given; and such Sheriff Clerk shall thereupon record the Execution in the Register of Hornings kept by him, and state therein the Name and Designation of the Person by whom such Extract and Execution were presented, and the Date of the Presentation, which Registration shall have all the like Operation and Effect as the Registration of any expired Charge of Payment, in Terms of the Act passed in the Session of Parliament holden in the First and Second Years of the Reign of Her present Majesty, intituled "An Act to amend the "Law of Scotland in Matters relating to Personal Diligence, Arrest-"ments, and Poindings."

1 & 2 Vict. c. 114.

After Execution of Charge recorded, Sheriff may issue Warrant to imprison.

XXXIV. On the Execution being so recorded, the Sheriff Clerk shall write upon the Extract, and upon the Execution (if it be written on Paper apart), a Certificate of the Registration thereof, which he shall date and subscribe, in Terms of the Schedule I. hereunto annexed, or as near thereto as Circumstances will permit; and it shall be lawful for the Sheriff to issue a Warrant to imprison in Terms as nearly as may be of the Schedule K. hereunto annexed; and it shall be lawful for any Messenger-at-Arms or Sheriff Officer, by virtue of such Extract and Warrant to imprison, to search for, take, apprehend, and imprison the Debtor or Obligant, and, if necessary for that Purpose, to open shut and lockfast Places; and the Magistrates and Keepers of Prisons are hereby authorized and required to receive into and detain in Prison the Person of the Debtor or Obligant, till liberated in due Course of Law, in like Manner as under any Extract and Warrant to imprison issued under the last-mentioned Act.

Sheriff may seize Books of Crown Debtor under Extract Decree.

XXXV. It shall be lawful for any Sheriff, by virtue of any such Extract, to cause the Sheriff Clerk of his County, or other Person empowered by him in that Behalf, to seize and detain the Books of Account and other Books and Papers of the Crown Debtor, in order to ascertain the State of his pecuniary Affairs, and the Book and other Debts due to him, and the Names and Residences of his Debtors, and the Amounts of the Debts severally due by them; and such Extract shall be a sufficient Warrant to such Sheriff Clerk or other Person to seize and detain such Books and Papers in Terms thereof; and such Sheriff Clerk or other Person shall return an Execution of such Seizure in the Form as nearly as may be of the Schedule L. hereunto annexed, and such Books and Papers shall be open to the Inspection of the Sheriff, and of any public Officer having Interest therein on the Behalf of the Crown.

Effects of deceased Crown Debtor may be attached by Arrestment or Poinding.

XXXVI. It shall be competent, notwithstanding the Death of any Person indebted to the Crown by Bond or other Obligation on which Diligence may competently proceed, or under any Extract Decree decerning for Payment of any Penalty, Duty, or Debt to Her Majesty, to proceed against the Estate and Effects of such Debtor by Arrestment, and also by Poinding; and it shall not be necessary in order thereto to cite or charge the Executor or other Representative of such Debtor, or to take any Proceeding against such Executor or Representative; but it shall be competent to register such Bond or other Obligation after as before the Death of the Debtor, and to obtain an Extract of the Decree proceeding upon such recorded Bond or Obligation, containing Warrant to execute Diligence in the like Terms as during the Lifetime of such Debtor; and on an Affidavit by any Person to the Effect that such Debtor is deceased, it shall be lawful for the Sheriff, without the Form of any previous Charge, to cause Arrest at once upon such Extract, registered Bond or Obligation, or Extract Decree in the Hands of any Person indebted or supposed to be indebted to the Deceased, and also to poind the whole moveable Effects of the Deceased, in the like Manner and to the same Effect in every respect as if the Deceased were still in Life, and had been duly charged and the Charge had expired.

Bonds, &c. heretofore taken by Court of Exchequer may be taken by Sheriffs, &c.

XXXVII. In all Cases where, at the Date of the passing of this Act, any Bonds, Recognizances, or Securities are in Use to be taken by any Judge or Judges of the Court of Exchequer, such Bonds, Recognizances, and Securities may be taken by any Sheriff, Sheriff Substitute, or Justice of the Peace.

Bonds to Her Majesty to be held as containing a Clause of Registration.

XXXVIII. All Bonds or Obligations granted or that may be granted to Her Majesty, in the Form heretofore in Use in the Court of Exchequer in Scotland, shall be deemed and taken to be probative Documents, and shall have all the like Privileges, Operation, and Effect as if duly executed and attested according to the Law of Scotland; and all Bonds or Obligations granted or that may be granted to Her Majesty, albeit not containing any Clause of Registration, shall be capable of Registration in the Books of Council and Session, or other Judges Books competent, and to have a Decree interponed thereto, and to be extracted with a view to Execution, in the like Manner as if a formal Clause of Registration had been contained therein; and all Diligence and Execution shall be competent thereon in the like Manner and to all Effects as upon any Bond containing such formal Clause of Registration: Provided, that where any such Bond or Obligation shall be for a penal Sum, stipulated to be paid in the event of Payment not being duly made of a smaller Sum of Money conditioned in such Bond or Obligation, Diligence and Execution shall proceed on the Extract of such Bond or Obligation only for Payment of such smaller Sum, conditioned as aforesaid, with such Interest and Expenses as may be due thereon.

Where a Bond to Her Majesty is not for a specific Sum, Sum may be supplied by an Account stated and certified, on which Diligence may proceed.

XXXIX. In the event of the Sum due under any Bond or Obligation to Her Majesty on which Diligence may competently proceed under this or any other Act not being set forth specifically therein, a stated Account of the Sum due under it, having annexed to it a Certificate signed by any Officer of the Revenue, in the Form as nearly as may be of the Schedule M. hereunto annexed, recorded along with such Bond or Obligation, shall be sufficient to ascertain the Sum due under such Bond or Obligation; and the Extractor shall, in extracting the Decree proceeding upon such Bond or Obligation, make the Warrant of Charge and for Diligence to be contained in such Extract applicable to the Sum in the said stated Account, in the like Manner in all respects as if such Sum in the said stated Account had been actually specified in such Bond or Obligation, and thereupon all Diligence and Execution shall proceed as if it had been so specified: Provided always, that no such Bond or Obligation granted after the Date of this Act shall be entitled to the Privilege hereby conferred, unless there be inserted therein a specific Clause conferring such Privilege.

Provision for recovering in Scotland Duties accruing in other Parts of the United Kingdom.

XL. Where any Duty shall have accrued due to Her Majesty in any Part of the United Kingdom furth of Scotland, and the Person owing such Duty shall be subject to the Jurisdiction of the Scotch Courts, it shall be competent to proceed in Scotland against such Person for the Recovery of such Duty in the like Manner as if such Duty had accrued due in Scotland; and all Evidence that such Duty is resting owing, which would by any Law or Statute have been receivable in such other Part of the United Kingdom, shall be receivable in Scotland, and with such and the like Effect and Operation in every respect as would attach to such Evidence in such other Part of the United Kingdom, or to any similar Evidence in Scotland.

Jurisdiction of Sheriffs and Justices in Exchequer Cases saved.

XLI. Nothing in this Act contained shall operate to prevent the Exercise by any Sheriff or Justice of the Peace in Scotland of any Jurisdiction at present competent to such Sheriff or Justice respectively.

Preference of Crown over other Creditors not to be affected.

XLII. Nothing in this Act contained shall impair, injure, or affect any Preference of the Crown in competition with other Creditors; and in all Questions of Preference or Competition, the Execution of any Charge at the Instance or on the Behalf or for Behoof of the Crown, and in the Case of deceased Crown Debtors to whom no such Charge has been given in their Lifetime, the Execution of any Arrestment or Poinding at the Instance or on the Behalf or for Behoof of the Crown, shall be deemed and taken to be equivalent in all respects to the Teste of a Writ of Extent, according to the existing Law and Practice.

16 Vict. c. 20. s. 3. not to extend to Revenue Cases.

XLIII. The Third Section of the Act of the Sixteenth Year of Her present Majesty, Chapter Twenty, shall not be deemed to apply to any Cause to be instituted under this Act relating to the Customs or Inland Revenue.

Lord President, Lord Advocate, and Lord Ordinary in Exchequer Causes empowered to make Orders and Regulations to facilitate Procedure.

XLIV. The Lord President of the Court of Session, the Lord Advocate, and the Lord Ordinary in Exchequer Causes, and any Two of them, shall have Power to frame Orders and Regulations, from Time to Time, with a view to carry into Execution the Purposes of this Act, and to remove any Difficulties which may be found to arise in applying to the Extent contemplated by this Act the Forms and Practice of the Court of Session to Exchequer Proceedings; provided that such Orders and Regulations shall not be inconsistent with the Provisions of this Act, and that within Fourteen Days from the Commencement of every future Session of Parliament there shall be transmitted to both Houses of Parliament Copies of all Orders and

Regulations framed as aforesaid, under the Powers herein given, not previously transmitted to Parliament.

Offices of Attornies, or Sworn Clerks and Macers in Exchequer, &c., abolished.

XLV. The Offices of Attornies or Sworn Clerks, and Macers of the Court of Exchequer as at present constituted are hereby abolished; and also all other Offices in the said Court, in so far as the same relate to any Duties attached to such Offices connected with the issuing of Writs, Process, and Diligence, and the Duties of Clerk of Court.

Compensation.

XLVI. It shall be lawful for any Person who conceives that he is entitled to Compensation for Loss to be suffered through the Operation of this Act to make Application to the Commissioners of Her Majesty's Treasury for the Time being claiming such Compensation; and it shall be lawful for the said Commissioners to investigate such Claim, and to call for such Evidence in relation thereto as they may think necessary; and upon such Claim being established to their Satisfaction, the said Commissioners are hereby authorized and empowered to award to such Person such Compensation as they shall think him entitled to, either by the Payment of a given Sum or by way of Annuity, as they shall think proper; and such Compensations shall be paid out of any Monies which may from Time to Time be voted by Parliament for that Purpose; provided that a Copy of every such Award of Compensation shall be laid before both Houses of Parliament within Ten Days from the Date thereof, if Parliament shall be then sitting, and if not, then within Ten Days after the Commencement of the Session of Parliament next ensuing, and no such Award shall be final and conclusive until Two Months after the same shall have been so laid before Parliament: Provided also, that if any Person to whom Compensation shall be so awarded by way of Annuity shall be afterwards appointed to any Public Office, such Compensation shall be accounted pro tanto of the Salary payable to such Person in respect of such Office while he shall continue to hold the same.

Interpretation.

XLVII. In construing this Act the following Words and Expressions shall receive the Meaning after assigned to them: The Expression "Lord Ordinary," shall mean the Lord Ordinary in Exchequer Causes to be appointed under this Act; the Word "Cause" shall comprehend Action, Suit, Prosecution, Process, and Proceeding; the Word "Person" shall comprehend Tribunal and public and private Company, and corporate and public and other Body, as well as the individual Members of such Tribunal, Company or Body; the Word "Decree" shall comprehend Act, Order, Warrant, Interlocutor, and Judgment; the Expression "Rentcharge" shall comprehend Debt, Rent, and Duty; and the Word "Penalty" shall comprehend Fine and Forfeiture.

XLVIII. All Laws, Statutes, Usages, Acts of Sederunt, and Rules and Regulations of Court now in force shall be and the same are hereby repealed, in so far as may be necessary to give Effect to the Provisions of this Act, and no further or otherwise.

Repeal of Acts, &c.

XLIX. This Act shall take effect from and after the Twelfth Day of November One thousand eight hundred and fifty-six; and all Causes then depending in the Court of Exchequer as at present constituted shall be transferred to the Court of Session acting as the Court of Exchequer under this Act, and shall be proceeded with in such Way and Manner as may be prescribed by any Rules and Regulations to be framed in Terms of this Act.

Act to take effect.

SCHEDULES referred to in the foregoing Act.

SCHEDULE A.

SUBPŒNA.

[*Name and Designation of Party.*]

You are hereby required to appear before the Lord Ordinary in Exchequer Causes in the Court of Session at Edinburgh, on the Fourteenth Day next after the Date of Service of this Subpœna, to answer to an Information then to be presented at the Instance of the Lord Advocate, on the Behalf of Her Majesty against you, [*and, when the Information is to be laid under an Act of Parliament, add,*] under the Act [*name Act of Parliament imposing the Penalty or Duty claimed, or under which the Debt is sought to be recovered.*] Given at Edinburgh, this day of Eighteen hundred and years.

(Signed) *A. B.*
Depute [*or* Assistant] Clerk of Session.

SCHEDULE B.

INFORMATIONS.

1. *Spirits.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

1*st Count,*—That on the Day of , in the Year there was found in the Distillery of *A.* [*design him,*] commonly called the Distillery, in the County of , and not in the Mash Tun or Wort Underback in such Distillery, Gallons of Wort or Wash, the Gravity whereof did exceed by more than Three Degrees, that is to say, by Fifteen Degrees in Cooler No. 1, by Fifty-five Degrees in Back No. 2, by Sixteen Degrees in Back No. 3, the particular Gravity which had been specified in a Notice in Writing delivered to the Supervisor or Surveyor in charge of the Distillery of him the said *A.* Contrary to the Statute 4th Geo. IV. Cap. 94. Sect. 44. Whereby the said *A.* has forfeited the Sum of £200.

2*d Count,*—That on the Day of in the Year there was found in the said Distillery of the said *A.*, and not in the Mash Tun, or Wort Underback in such Distillery, 100 Gallons of Wort or Wash, the Gravity whereof did exceed by Fifty-four Degrees, or, at least, by more than Three Degrees, the particular Gravity which had been specified in a Notice in Writing in that Behalf, delivered to the Supervisor or Surveyor in charge of the Distillery of him, the said *A.* Contrary to the Statute 4th Geo. IV. Cap. 94. Sect. 44. Whereby the said *A.* has forfeited the Sum of £200.

3*d Count,*—That on the Day of in the Year in the Distillery of the said *A.*, commonly called Distillery, of the said *A.*, 9,211 Gallons of Wort or Wash, which had not been collected in the Wort Receiver, and the Quantity and Gravity whereof had not been declared, as in the Statute in that Behalf made is required and directed, was conveyed into and collected in a Fermenting Back, No. 1 Back, in the said Distillery, but was not so conveyed and collected within the Space of Six Hours after the Running or Conveyance of such Wort or Wash had commenced. Contrary to the Statute 4th Geo. IV. Cap. 94. Sect. 48. Whereby the said *A.* has forfeited the Sum of £200.

4th Count,—That the said *A.*, being a Distiller, on the Day of in the Year , and on Three other Days between that Day and the Day of , in the Distillery of the said *A.*, One hundred Gallons of Wort or Wash, which had not been collected in the Wort Receiver, and the Quantity and Gravity of which had not been declared, as in the Statute in that Behalf made is directed, and which was intended to be run or conveyed into a Fermenting Back of him the said *A.*, as such Distiller, was conveyed into and collected in a Fermenting Back in the said Distillery; yet the said *A.* did not, on any or either of the said last-mentioned Days, immediately and without Delay, deliver to the proper Officer in that Behalf a Declaration in Writing, specifying the several Particulars in reference to the said Wort or Wash, in Terms of the Statute. Contrary to the Statute 4th Geo. IV. Cap. 94. Sect. 48. Whereby the said *A.* has, for each of his said Offences, forfeited the Sum of £200, amounting in the whole to the Sum of £800.

5th Count,—That on the Day of in the Year , at the Place aforesaid, the said *A.* did remove, or send with a Permit, a lesser Quantity of Spirits than the Quantity specified and described in the said Permit. Contrary to the Statute 2d Will. IV. Cap. 16. Sect. 13. Whereby the said *A.* has forfeited the Sum of £500.

6th Count,—That on the Day of in the Year , at the Place aforesaid, the said *A.* did utter a certain false or untrue Request-note to an Officer of Excise, for the Purpose of falsely and fraudulently obtaining a Permit with and for certain Spirits. Contrary to the Statute 2d Will. IV. Cap. 16. Sect. 13. Whereby the said *A.* has forfeited the Sum of £500.

7th Count,—That on the Day of in the Year the said *A.* did knowingly or willingly give a false or untrue Permit with and for certain Spirits. Contrary to the Statute 2d Will. IV. Cap. 16. Sect. 13. Whereby the said *A.* has forfeited the Sum of £500.

8th Count,— That on the Day of in the Year a Quantity of Spirits was removed from the Distillery of the said *A.*, he the said *A.* being a Distiller licensed under the Statutes in that Case made and provided, in the Quantity of Two Gallons and One Half Gallon, or at least a less Quantity than Nine Gallons. Contrary to the Statute 4th Geo. IV. Cap. 94., Sect. 120. Whereby the said *A.* has forfeited the Sum of £200.

[*To be Signed by the Lord Advocate or Counsel.*]

Note.—Each Count in this and any other Information may, if thought proper, be made itself a separate Information.

2. *Malt.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

1*st Count*,—That on the Day of in the Year , within the Parish of and County of , *A.*, being a Maltster or Maker of Malt, did remove, carry, or send away about Four Bushels of Malt from the Building or Place where the same had been made, before the said Malt had been taken account of and charged with Duty by the proper Officer of Excise, or did fraudulently deposit, conceal, or convey away from the Sight of the Officers of Excise about Four Bushels of Malt or of Corn or Grain making into Malt. Contrary to the Statute 7th and 8th Geo. IV. Cap. 52, Sections 40 and 41. Whereby the said *A.* has forfeited the Sum of £200.

2*d Count*,—That at the Time and Place aforesaid the said *A.*, being a Distiller and Maker of Low Wines or Spirits, making Entry as a Maltster or Maker of Malt for the sole Purpose of being consumed in distilling Low Wines or Spirits from Malt only, did take about Four Bushels of Malt off the Kiln without having given such Notice as in the Statute 7th and 8th Geo. IV. Cap. 52., Sect. 68. is required. Contrary to the said Statute. Whereby the said *A.* has forfeited the Sum of £50.

3*d Count*,—That at the Time and Place foresaid the said *A.* did resist, oppose, molest, obstruct, or hinder a Person employed in the Revenue of Excise in the due Execution of a Power or Authority conferred upon him by the said Statute 7th and 8th Geo. IV. Cap. 52. Sect. 9. Contrary to the said Statute. Whereby the said *A.* has forfeited the Sum of £300.

4*th Count*,—That at the Time and Place foresaid the said *A.* did molest, obstruct, or hinder a certain Person employed in the Revenue of Excise in the Seizure of Malt forfeited under or by virtue of the Statute in that Case made and provided. Contrary to the Statute 7th and 8th Geo. IV. Cap. 53. Sect. 39. Whereby the said *A.* has forfeited the Sum of £200.

3. *Licence.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That on or about the Day of Eighteen hundred and at in the County of , *A.* [*design him*], being a Maltster [*or* Distiller, *or* as the Case may be], did make or manufacture Malt [*or* Spirits, *or* as the Case may be], for the making or manufacturing [*or* did exercise or carry on the Trade or Business of a , for the exercising or carrying on] of which a Licence was by Statute required, without taking out such Licence. Contrary to the Act 6 Geo. IV. Cap. 81. Sect. 26. Whereby the said *A.* has forfeited the Sum of £ .

4. *Entry.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That on or about the Day of Eighteen hundred and at in the County of , *A.* [*design him*], a Person carrying on the Trade or Business of [*specify it*], under or subject to certain Laws of Excise, did make use of a House [*or* Building, *or* Vessel, *or*

Utensil, *or* as the Case may be], for the making of [*or* for the retailing *or* Storing, *or* as the Case may be], Spirits [*or* Malt, *or* as the Case may be]; of which House [*or* as the Case may be], Entry was by Statute required to be made; without having made Entry thereof by delivering such true and particular Account thereof as by Law is required, to the Officer of Excise in whose Survey such House [*or* as the Case may be] was intended to be used as aforesaid. Contrary to the Statute 4 & 5 Will. IV. Cap. 51. Sect. 6. Whereby the said *A.* has forfeited the Sum of £200.

5. *Concealing Goods.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That *A.* [*design him*] on or about the Day of , Eighteen hundred and at in the County of did remove, deposit, or conceal, or was concerned in removing, depositing, or concealing, certain or other Goods or Commodities, being of the Value of £ , for or in respect whereof a Duty of Excise was and is imposed, with Intent to Defraud Her Majesty of the said Duty. Contrary to the Statute 7 & 8 Geo. IV. Cap. 53. Sect. 32. Whereby the said *A.* has forfeited the Sum of £ being Treble the Value of the said Goods and Commodities, which the Commissioners of Excise have elected to take in lieu of the Penalty of £100.

6. *Not cancelling Permit.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on behalf of Her Majesty, inform the Court,—

1*st Count.* That at the Time of committing the several Offences after mentioned, *A.* [*design him*] was a Dealer in [*or* Retailer of] Spirits, and, as such, had provided himself with a Book, as prescribed by the Act 11 and 12 Vict. Cap. 121, for the Purpose of entering therein such Particulars relating to Spirits to be received into his Stock, Custody, or Possession as by the said Act Dealers in [*or* Retailers of] Spirits were and are required to make due Entries of: And that the said *A.* did, on or about the Day of Eighteen hundred and at in the County of , receive into his Stock, Custody, or Possession, Fifty Gallons, or other large Quantity of Spirits: Yet the said *A.* did not, at any Time on the said Day on which the said Spirits were so received by him, make, or cause to be made, due Entries in his said Book, of the several Particulars by the said Act required to be entered therein relating to the said Spirits. Contrary to the said Statute 11 and 12 Vict. Cap. 121. Whereby the said *A.* has incurred the Penalty of £100.

2*d Count,*—That the said *A.*, being a Dealer in [*or* Retailer of] Spirits, did, on or about the Day of Eighteen hundred and , at in the County of receive Fifty Gallons or other Quantity of Spirits, which were, at the Time when they were so received by him, accompanied by a true and lawful Permit [*or* Certificate]; and the said *A.* did then and there receive such Permit [*or* Certificate] with the said Spirits; yet the said *A.* did not, immediately on receiving such Permit [*or* Certificate] cancel the same in the Manner directed by the said Statute, so as to prevent the same from being again used for the Removal of Spirits. Contrary to the said Statute 11 and 12 Vict. Cap. 121. Whereby the said *A.* has incurred the Penalty of £50.

7. *Private Still.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That on or about the Day of Eighteen hundred and , at in the County of , *B.* and *C.*, Officers of Excise, did discover and seize a certain private or concealed Still for making Spirits, in a certain House, [*or* Place, *or* as the Case may be], in which the same had been or was then set up or kept by *A.* [*design him*], or other Person to Her Majesty's Advocate unknown, not licensed to that Effect: And the said Still was not, within Ten Days after such Seizure, claimed by any Person as the Owner thereof: And the said *A.* was the Proprietor of the said Still, or the same was found in his Custody. Contrary to the Statute 3 Geo. IV. Cap. 52. Sects. 13. and 14.: Whereby the said *A.* has forfeited the Sum of £200 for the said Place in which said Still was found, and the further Sum of £200 for the said Still.

8. *Seizure.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That *B.*, Officer of Excise, on or about the Day of in the Year , at in the County of , did seize and arrest to the Use of Her Majesty, as forfeited, 100 Bushels of Malt or thereby, in respect,—

1*st. Count*,—That the said Malt was, by a Person to Her Majesty's Advocate unknown, fraudulently deposited, concealed, or conveyed away from the Sight of the Officers of Excise. Contrary to the Statute 7 and 8 Geo. IV. c. 52. Sec. 40. Whereby the said Malt became forfeited.

2*d Count*,—That the said Malt was in the Custody or Possession of a Person to Her Majesty's Advocate unknown, the same being Malt which had been removed, carried, or sent away from the Building and Place where the same had been made, before the said Malt had been taken account of and charged with Duty, such Person knowing the same to have been so removed, carried, or sent away. Contrary to the Statute 7 and 8 Geo. IV. C. 52. Sec. 41. Whereby the said Malt became forfeited.

3*d Count*,—That on or about the Day of in the Year , at in the County of , the said Malt, being Goods and Commodities for and in respect whereof a certain Duty of Excise was imposed, was removed or deposited or concealed, with Intent to defraud Her Majesty of such Duty, or of a certain Portion thereof. Contrary to the Statute 7 and 8 Geo. IV. C. 53. Sec. 32. Whereby the said Malt became forfeited.

9. *Customs.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

1*st Count*,—That on or about the Day of in the Year , in the County of , *A.* [*design him*], Grocer and Spirit Dealer, was knowingly concerned in conveying, removing, depositing, concealing, or dealing with 80 Pounds Weight or thereby of Tobacco, or other Goods, liable to Duties of Customs, with Intent to defraud Her Majesty of the Duties thereon. Contrary to the Statute 16 and 17 Vict. Cap. 107. Secs. 232. and 263. Whereby the said *A.* has forfeited the Sum of £ , being Treble the Value of the said Tobacco or other Goods, for which the Commissioners of Customs have elected to sue.

2*d Count*,—That on or about the Day of in the Year , at in the County of , the said *A.* did carry, convey, or conceal, or was aiding, assisting, or concerned in the carrying, conveying, or concealing of 80 Pounds Weight or thereby of Tobacco, then and there liable to Forfeiture under the Act 16 and 17 Vict. Cap. 107. Secs. 209. 234. and 263. Contrary to the said Statute. Whereby the said *A.* has forfeited the Sum of £ , being Treble the Value of the said Tobacco, for which the Commissioners of Customs have elected to sue.

10. *Legacy Duty.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That on the Day of in the Year *A.* [*design him*] was indebted to Her Majesty in the Sum of £ , by virtue of the Statute 55 Geo. III. Cap. 184. Schedule, Part 3, inasmuch as *B.* [*design him*], deceased, by certain Testamentary Instruments, gave to *C.* the clear Residue of the Monies to arise from the Sale or other Disposition of certain heritable Estates of the said *B.* by the said Testamentary Instruments directed to be sold or otherwise disposed of: That on the Day of in the Year , at in the County of , the said *B.* died, without revoking or altering the said Testamentary Instruments as to the said Residue so given as aforesaid: That the said clear Residue was more than the Value of £20: That the said *A.* was a Trustee to whom the said heritable Estate, out of the Monies to arise from the Sale or other Disposition of which the said clear Residue so given was to be paid or satisfied, was devised; and being such Trustee, he retained, for the Benefit of the said *C.*, the Sum of £ , or thereby, a Part of the said clear Residue, on which Part thereof the Duty which was chargeable was the said Sum of £ ; and the said *A.* did not, before retaining as aforesaid, first pay the said Duty to Her Majesty. Contrary to the said Statute. Whereby the said *A.* is indebted and liable to pay to Her Majesty the said Sum of £ .

11. *Inventory Duty.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That on the Day of in the Year , *A.* [*design him*] was indebted to Her Majesty in the Sum of £ , by virtue of the Statutes 48 Geo. III. Cap. 149. Sec. 38. and 55 Geo. III. Cap. 184. Schedule, Part 3., for Double the Amount of Stamp Duty which would have been payable by the said *A.*, upon a certain Inventory of the Personal and Moveable Estate and Effects, in Scotland, of the Value of £ , or thereby, of *B.* [*design him*], who died after the 1st Day of January 1842, that is to say, on or about the Day of , in the Year , which Inventory the said *A.*, although he had intromitted with and entered upon the Possession and Management of the said Estate and Effects more than Six Calendar Months before the said Day of in the Year , and ought before that Day to have exhibited such Inventory in the proper Commissary Court in Scotland, neglected to exhibit within the Time prescribed for that Purpose. Contrary to the said Statutes. Whereby the said *A.* is indebted to Her Majesty in the said Sum of £

12. *Succession Duty.* – (*Heritable Property.*)

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That *A.* [*design him*] became beneficially entitled upon the Death of *B.*, on the Day of in the Year ; to certain Heritable or Real Property, situated in the County of , in Possession, or to the Receipt of the Income or Profits thereof, for a Period not less than the Residue of his Life: That the annual Value, after Allowance of all necessary Outgoings of the said Property, was £ : That the Value of the said Succession, in Terms of the Statute 16 & 17 Vict. Cap. 51., amounted to the Sum of £ , and the Duty payable thereon to the Sum of £ : That the said Duty was payable by Eight Half-yearly Instalments, and the Periods when the First and Second Half-yearly Instalments of the same were payable are past, and the said Instalments have not been paid to Her Majesty: That the said Instalments of Duty were finally ascertained on the Day of ; and the said *A.* has wilfully neglected to pay the same within Twenty-one Days from the said Date when such Duty was so ascertained. Contrary to the Statute 16 & 17 Vict. Cap. 51. Whereby the said *A.* became indebted to Her Majesty in the Sum of £ , being the Amount of the said First and Second Instalments of Succession Duty; and liable to pay to Her Majesty the Sum of £ of Penalty, for Neglect as aforesaid of Payment of said Instalments, and a like Sum of £ for every Month after the First Month during which such Neglect has continued and shall continue.

13. *Succession Duty.*—(*Personal Property.*)

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That *A.* [*design him*] became beneficially entitled, upon the Death of *B.*, on the Day of Eighteen hundred and , to a certain Sum of Money, amounting to £ : That the said *B.* obliged himself, by the antenuptial Marriage Contract entered into between him and his Wife, to pay, Six Months after his Death, to the Child or Children of the said Marriage, the said Sum; and the said *A.* is the only Child of the said Marriage: That the said *A.* became entitled in Possession to the said Succession, or to the Receipt of the Income thereof, upon the Day of Eighteen hundred and , and the Succession Duty thereon was then payable: That the said Duty amounts to the Sum of £ , and has not been paid to Her Majesty: That the said Duty was finally ascertained on the Day of Eighteen hundred and , and the said *A.* has wilfully neglected to pay the same within Twenty-one Days from the said Date when such Duty was so ascertained. Contrary to the Statute 16 & 17 Vict. Cap. 51. Whereby the said *A.* became indebted to Her Majesty in the said Sum of £ , being the Amount of the said Succession Duty; and liable to pay to Her Majesty the Sum of £ of Penalty for Neglect of Payment of said Duty, and a like Sum of £ of Penalty for every Month after the First Month during which such Neglect has continued and shall continue.

14. *Crown Teinds.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

1st Count,—That on the Day of in the Year *A.* [*design him*] was indebted to Her Majesty in the Sum of £ , due and owing by him for the Teinds of the Lands of , in the County of , after Deduction of Stipend payable therefrom, which Teinds belong to Her Majesty for the Crops of the Years and and intervening Crops.

2d Count,—That the said *A.*, on the Day of in the Year , was indebted to Her Majesty in the further Sum of £ , due and owing by him for Interest upon Money due by him to Her Majesty.

15. *Promissory Note.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the behalf of Her Majesty, inform the Court, That on the Day of in the Year *A.* [*design him*] did make, sign, or issue a certain Promissory Note for the Payment of a Sum of Money amounting to Five Pounds, and not exceeding One hundred Pounds, in another Manner than to the Bearer on Demand, liable to the Payment of Stamp Duty charged by the Statute 17th & 18th Vict. Cap. 83., without the same being duly stamped or marked with the proper Stamp or Mark as by Law is directed, that is, a Promissory Note, bearing Date the Day of in the Year , for the Payment Months after Date, to the Order of *B.*, of the Sum of £ , or some other Promissory Note, liable to a Stamp Duty of , without the same being duly stamped or marked with the Stamp or Mark indicating the Payment of the said Duty, contrary to the Statutes 55 Geo. III. Cap. 184., 17th & 18th Vict. Cap. 83., and other Statutes, whereby the said *A.* has forfeited the Sum of £50.

16. *Receipt Stamp.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court,—

That on or about the Day of in the Year *A.* [*design him*] did write or sign or cause to be written or signed a certain Receipt or Discharge, given for or upon the Payment of a Sum of Money amounting to Two Pounds and upwards, that is to say, £ , liable to the Payment of Stamp Duty charged by the Act 16th & 17th Vict. Cap. 59., upon a Piece of Paper, without the same being first stamped, or marked with the Stamp or Mark impressed upon the Paper, and without having the adhesive Stamp affixed thereto, as by Law is directed, contrary to the Statutes 35 Geo. III. Cap. 55., and 16th & 17th Vict. Cap. 59., and other Statutes, whereby the said *A.* has forfeited the Sum of £10 [*or* £20.]

17. *Attorney Certificate Duty.*

I, the Right Honourable *A.B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That at in the County of . between the Day of in the Year of and the Day of the Lodging of this Information, *A.*, in the County , Writer, did, in his own Name, and he, the said *A.*, not being then entitled to any special Exemption from the Duties on such Certificates, did for and in Expectation of Gain, Fee, or Reward, commence, carry on, or defend a certain Action, Suit, and Proceeding in a certain Court in Scotland as a Solicitor, Attorney, and Procurator, and Agent of the said Court, without having first duly obtained a proper stamped Certificate in the Manner in the Statute directed, contrary to the Statute 9 Geo. IV. Cap. 49. Sec. 9., whereby the said *A.* has forfeited the Sum of £50.

18. *Post Horse Duty.*

I, the Right Honourable *A. B.*, Her Majesty's Advocate, on the Behalf of Her Majesty, inform the Court, That on the Day of in the Year , at in the County of , *A.*, having a Licence to keep at One Time to be let for Hire One Horse, did keep at One Time to be let for Hire a greater Number of Horses, viz., Two Horses, than he was by the foresaid Licence authorized to keep at One Time to be let for Hire. Contrary to the Statute 16th & 17th Vict. Cap. 88., Sec. 15. Whereby the said *A.* has forfeited the Sum of £100.

SCHEDULE C.

VERDICT.

The Jury find for the Queen; *or*

The Jury find for the Defender; *or*

The Jury find for the Queen [*or*, the Defender,] on the First Count; and for the Defender [*or* the Queen] on the Second Count [*or* as the Case may be].

[*To be written on the Information, and signed by the Clerk of Court.*]

SCHEDULE D.

APPRAISEMENT OF SEIZURE.

Date of Seizure.	Officers' Names by whom seized.	Where seized.	For what Cause seized.	Species and Quantity of Goods seized.	Value appraised at £ s. d.
			Total - -	£	

I [*Name and Designation*] hereby certify, That the foregoing Appraisement made by me, in order to be returned to the Court of Session as the Court of Exchequer in Scotland, is just and true, as to the Quantity, Quality, and Value of the Articles therein stated, and in all other Particulars, to the best of my

Knowledge. Dated at this Day of Eighteen hundred and .

[*To be signed by the Officer making the Seizure, or other Officer of the same Department of the Revenue.*]

SCHEDULE E.

CLAIM FOR SEIZURE.

Claim for Goods seized by [*Name and Designation*], Officer of Inland Revenue (Excise Branch), [*or* as the Case may be] at .

I [*Name*] Distiller, [*or* as the Case may be] residing at , declare that I am the Owner of the Goods contained in the Appraisement made by [*Name and Designation*], dated the Day of Eighteen hundred and , and I claim the same.

[*To be signed by the Claimant.*]

SCHEDULE F.

NOTE OF APPEAL.

Note of Appeal for *A.B.* [*design him*], Supervisor of Excise for [*or* as the Case may be.]

In the Information in the Excise Branch of the Inland Revenue, [*or* the Stamps Branch of the Inland Revenue, *or* the Customs Branch of the Revenue, *or* as the Case may be,] at his Instance against *C.D.* [*design him*], before Her Majesty's Justices of the Peace for the County of

[*or,*]

In the Matter of the Warrant of Commitment of the said *A.B.*, granted upon the Application [*or* Certificate, *or* as the Case may be,] of *C.D.* [*design him*], issued by Her Majesty's Justices of the Peace for the County of [*or* the Sheriff of the County of , *or* as the Case may be].

The Appellant hereby appeals against a Judgment [*or* Warrant of Commitment, *or* as the Case may be,] of the said Justices, dated [*specify Date*], signed by and [*name the Justice or Justices by whom signed, and state that they are Justices.*]

In respect whereof, *&c.*

[*To be signed by any Solicitor of Revenue, or by any Agent before the Court of Session.*]

SCHEDULE G.

WARRANT TO BE SUBJOINED TO EXTRACTS OF EXCHEQUER DECREES IN FAVOUR OF THE CROWN.

And the said Lords command and charge all Sheriffs of Counties, and each of them, conjunctly and severally, to put this Decree in execution in manner under-written, that is to say, in Her Majesty's Name, to cause charge the said *A.* personally, or at his Dwelling Place, if within Scotland, and if furth thereof, by delivering a Copy of Charge at the Office of the Keeper of the Record of Edictal Citations, at Edinburgh, to make Payment of the foresaid Sum or Sums of Money, Principal, Interest, and Expenses, [*or* to implement and perform the foresaid Obligations, *or* both to pay and perform, as the Case may require,] all Terms of and to the Effect contained in the Decree above written, and here referred to and held as repeated *brevitatis Causa;* and that to them the said Sheriffs, or One or other of them, on the Behalf of Her Majesty, within Six Days next after he is charged to that Effect, under the Pain of Poinding and Imprisonment; and also to cause arrest the said *A.*'s readiest Goods, Gear, Debts, and Sums of Money, in Payment and Satisfaction of the said Sum, Interest, and Expenses; and also to cause seize and detain the Books of Accounts, and other Books and Papers of the said *A.*; and if the said *A.* shall fail to obey the said Charge to be given to him as aforesaid, then to cause poind the readiest Goods, Gear, or other Effects of the said *A.*, and, if needful for effecting such Poinding, to cause open all shut and lockfast Places, in Form as Effeirs; and also, in the same Event, that the said *A.* shall fail to obey the said Charge, then to cause search for, take, and apprehend the Person of the said *A.*, and being so apprehended, to cause imprison the said *A.*, within a Tolbooth or other warding Place, therein to remain until he fulfil the said Charge, and if necessary for that Purpose to open shut and lockfast Places; and to grant Warrant also to the Magistrates and Keepers of Prisons to receive and detain therein the said *A.*

Extracted [*Specify Place and Date*] by
[*Extractor's Signature.*]

SCHEDULE H.

Execution of Charge against Crown Debtor.

Upon the Day of I, , Messenger-at-Arms, [*or* Sheriff Officer,] by virtue of, [*state Nature and Date of Extract and Decree whereupon it proceeds*], at the Instance of on the Behalf of Her Majesty against *A.*, [*specify Name and Designation of Crown Debtor or Obligant,*] passed and in Her Majesty's Name and Authority lawfully charged the said *A.* to [*state what the Party has been charged to do; if to pay Money, specify the Sum, Interest, and Expenses; or if to fulfil an Obligation, specify it as in the Extract*], and that to *C.D.*, Sheriff of the County , for the Behoof of Her Majesty, within Six Days next after the Date of my said Charge, under the Pain of Poinding and Imprisonment. This I did [*state Mode of Execution, whether personally or otherwise*], before and in presence of *E.*, Witness to the Premises.

[*Messenger's or Officer's Signature.*]

[*Witness's Signature.*]

SCHEDULE I.

Certificate of Registration of Execution of Charge in Sheriff Court.

Presented by *A.B.*, [*Name and Designation,*] and registered in the particular Register of Hornings for the Shire of on the Day of

[*Keeper or Clerk's Signature.*]

SCHE-

SCHEDULE K.

Warrant to imprison.

[*Place and Date.*]

The Charge being expired, and registered as per Execution and Certificate produced, grant Warrant to search for, take, and apprehend the Person of the said *A*, [*Name of Debtor or Obligant,*] and being so apprehended to imprison him within a Tolbooth or other warding Place, therein to remain until he fulfil the said Charge; and, if necessary for that Purpose, to open shut and lockfast Places; and Warrant also to Magistrates and Keepers of Prisons to receive and detain the said *A*. accordingly.

[*To be signed by Sheriff.*]

SCHEDULE L.

Execution of Seizure of Books and Papers of Crown Debtor.

Upon the Day of , at within the County of , I, *J. H.*, Sheriff Clerk of the said County of , by virtue of a Warrant to that Effect, contained in [*specify the Extract in which Warrant contained and its Date*], have seized the Books and Papers belonging to *A*, [*name and design him*], specified in the following

Inventory.

[*Follows the Inventory.*]

the same having, on my Requisition to that Effect, been voluntarily handed over to me by the said *A*. [*or* by K. [*Name and Designation*], having the Custody thereof; *or* as the Case may be.]

or,

the same having been found by me in a Safe or Press in the House of the said *A*, at , to which I obtained Access by breaking open the Doors of the said House, and a Safe or Press therein, because I could not otherwise obtain Admittance thereto [*or* as the Case may be].

[*Signature.*]

Sheriff Clerk.

SCHEDULE M.

Certificate of Officer of Revenue to stated Account.

I [*Name and Designation*], being an Officer of Her Majesty's Revenue, hereby certify, That there is due to Her Majesty, in terms of the foregoing stated Account, under a Bond granted by [*Name and Designation*] to Her Majesty, dated the Day of , the Sum of . Dated at , this Day of Eighteen hundred and ,

[*Signature of Officer of Revenue.*]

Court of Exchequer (Scotland).

A

BILL

[AS AMENDED IN COMMITTEE]

To constitute the Court of Session the Court of Exchequer in Scotland, and to regulate Procedure in Matters connected with the Exchequer.

(Prepared and brought in by
The Lord Advocate and Sir George Grey.)

Ordered, by The House of Commons, *to be Printed,*
23 *June* 1856.

[Bill 195.]

Under 4 *oz.*

5 *February* 1856. 19 VICT.

(Ireland.)

A

BILL

TO

Further amend the Procedure in and to enlarge the Jurisdiction of the Superior Courts of Common Law in Ireland.

Preamble.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title of Act.

I. This Act may be cited for all Purposes as the "Common Law Procedure Amendment Act (Ireland), 1856."

Incorporation of Acts.

II. This Act and "The Common Law Procedure Amendment Act (Ireland), 1853," shall be incorporated and construed together as One Act.

Judge may, by Consent, try Questions of Fact.

III. The Parties to any Cause may, by Consent in Writing, signed by them or their Attorneys, as the Case may be, leave the Decision of any Issue of Fact to the Court, provided that the Court, or a Judge, shall, in their or his Discretion, think fit to allow such Trial; or provided the Judges of the Superior Courts of Law at Dublin shall, in pursuance of the Power in "The Common Law Procedure

Amendment Act (Ireland), 1853," contained, make any General Rule or Order dispensing with such Allowance, either in all Cases or any particular Class or Classes of Cases to be defined in such Rule or Order; and such Issue of Fact may thereupon be tried and determined, and Damages assessed where necessary, in open Court, either in Term or Vacation, by any Judge who might otherwise have presided at the Trial thereof by Jury, either with or without the Assistance of any other Judge or Judges of the same Court, or included in the same Commission at the Assizes; and the Verdict of such Judge or Judges shall be of the same Effect as the Verdict of a Jury, save that it shall not be questioned upon the Ground of being against the Weight of Evidence; and the Proceedings upon and after such Trial, as to the Power of the Court or Judge, the Evidence, and otherwise, shall be the same as in the Case of Trial by Jury.

Two Judges may sit at the same Time for Trial of Causes pending in the same Court.

IV. It shall be lawful for any One of the Judges of any of the Superior Courts at Dublin, at the Request of the Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, to try the Causes entered for Trial at Nisi Prius in Dublin in any of the Courts, on the same Days on which the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, or any other Judge of the same Court, shall be sitting to try Causes at Dublin, so that the Trial of Two Causes may be proceeded with at the same Time; and all Jurors, Witnesses, and other Persons who may have been summoned or required to attend at or for the Trial of any Cause before the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, as the Case may be, shall give their Attendance at and for the Trial thereof before such other Judge as may be sitting to try the same by virtue of this Act; and it shall be lawful for the Registrars and other Officers of the Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, as the Case may be, to appoint from Time to Time fit and proper Persons, to be approved by the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, to attend for them and on their Behalf respectively before such Judge; and the Trial of every Cause which shall be so had by virtue of this Act shall, if necessary, be entered of Record, as having been had before the Judge by whom such Cause in fact was tried.

Power to Court or Judge to direct Arbitration before Trial.

V. If it be made appear, at any Time after the issuing of the Writ, to the Satisfaction of the Court or a Judge, upon the Application of either Party, that the Matter in dispute consists wholly or in part of Matters of mere Account which cannot conveniently be tried in the ordinary Way, it shall be lawful for such Court or Judge, upon such Application, if they or he think fit, to decide such Matter in a summary Manner, or to order that such Matter, either wholly or in part, be referred to an Arbitrator appointed by the Parties, or to an Officer of the Court, or, in Country Causes, to the Assistant Barrister of any County, upon such Terms, as to Costs and otherwise, as such Court or Judge shall think reasonable; and the Decision or Order of such Court or Judge, or the Award or Certificate of such Referee, shall be enforceable by the same Process as the Finding of a Jury upon the Matter referred.

Special Case may be stated, and Question of Fact tried.

VI. If it shall appear to the Court or a Judge that the Allowance or Disallowance of any particular Item or Items in such Account depends upon a Question of Law fit to be decided by the Court, or upon a Question of Fact fit to be decided by a Jury, or by a Judge upon the Consent of both Parties as herein-before provided, it shall be lawful for such Court or Judge to direct a Case to be stated, or an Issue or Issues to be tried; and the Decision of the Court upon such Case, and the Finding of the Jury or Judge upon such Issue or Issues, shall be taken and acted upon by the Arbitrator, Officer of the Court, or Assistant Barrister, as the Case may be, as conclusive.

Arbitrator may state Special Case.

VII. It shall be lawful for the Arbitrator, Officer of the Court, or Assistant Barrister, upon any compulsory Reference under this Act, or upon any Reference by Consent of Parties where the Submission is or may be made a Rule or Order of any of the Superior Courts of Law or Equity at Dublin, if he shall think fit, and if it is not provided to the contrary, to state his Award, as to the whole or any Part thereof, in the Form of a Special Case for the Opinion of the Court, and when an Action is referred, Judgment, if so ordered, may be entered according to the Opinion of the Court.

Power to Judge to direct Arbitration at Time of Trial, when Issues of Fact left to his Decision.

VIII. If upon the Trial of any Issue of Fact by a Judge under this Act it shall appear to the Judge that the Questions arising thereon involve Matter of Account which cannot conveniently be tried before him, it shall be lawful for him, at his Discretion, to order that such Matter of Account be referred to an Arbitrator appointed by the Parties, or to an Officer of the Court, or, in Country Causes, to the Assistant Barrister of any County, upon such Terms, as to Costs and otherwise, as such Judge shall think reasonable; and the Award or Certificate of such Referee shall have the same Effect as herein-before provided as to the Award or Certificate of a Referee before Trial; and it shall be competent for the Judge to proceed to try and dispose of any other Matters in question, not referred, in like Manner as if no Reference had been made.

Proceedings before and Power of such Arbitrator.

IX. The Proceedings upon any such Arbitration or Reference as aforesaid shall, except otherwise directed hereby or by the Submission or Document authorizing the Reference, be conducted in like Manner, and subject to the same Rules and Enactments, as to the Power of the Arbitrator, Officer of the Court, or Assistant Barrister, and of the Court, the Attendance of Witnesses, the Production of Documents, enforcing or setting aside the Award, and otherwise, as upon a Reference made by Consent under a Rule of Court or Judge's Order.

Power to send back to Arbitrator.

X. In any Case where Reference shall be made to Arbitration as aforesaid the Court or a Judge shall have Power at any Time, and from Time to Time, to remit the Matters referred, or any or either of them, to the Re-consideration and Re-determination of the said Arbitrator, upon such Terms, as to Costs and otherwise, as to the said Court or Judge may seem proper.

Application to set aside the Award.

XI. All Applications to set aside any Award made on a compulsory Reference under this Act shall and may be made within the First *Seven* Days of the Term next following the Publication of the Award to the Parties, whether made in Vacation or Term; and if no such Application is made, or if no Rule is granted thereon, or if any Rule granted thereon is afterwards discharged, such Award shall be final between the Parties.

Enforcing of Awards within Period for setting them aside.

XII. Any Award made on a compulsory Reference under this Act may, by Authority of a Judge, on such Terms as to him may seem reasonable, be enforced at any Time after *Seven* Days from the Time of Publication, notwithstanding that the Time for moving to set it aside has not elapsed.

If Action commenced by One Party after all have agreed to Arbitration, Court or Judge may stay Proceedings.

XIII. Whenever the Parties to any Deed or Instrument in Writing to be hereafter made or executed, or any or them, shall agree that any then existing or future Differences between them or any of them shall be referred to Arbitration, and any One or more of the Parties so agreeing, or any Person or Persons claiming through or under him or them, shall nevertheless commence any Action at Law or Suit in Equity against the other Party or Parties, or any of them, or against any Person or Persons claiming through or under him or them in respect of the Matters so agreed to be referred, or any of them, it shall be lawful for the Court in which Action or Suit is brought, or a Judge thereof, on Application by the Defendant or Defendants, or any of them, before Appearance and Defence or Answer, upon being satisfied that no sufficient Reason exists why such Matters cannot be or ought not to be referred to Arbitration according to such Agreement as aforesaid, and that the Defendant was at the Time of the bringing of such Action or Suit and still is ready and willing to join and concur in all Acts necessary and proper for causing such Matters so to be decided by Arbitration, to make a Rule or Order staying all Proceedings in such Action or Suit, on such Terms, as to Costs and otherwise, as to such Court or Judge may seem fit: Provided always, that any such Rule or Order may at any Time afterwards be discharged or varied as Justice may require.

On Failure of Parties or Arbitrators, Judge may appoint single Arbitrator or Umpire.

XIV. If in any Case of Arbitration the Document authorizing the Reference provide that the Reference shall be to a single Arbitrator, and all the Parties do not, after Differences have arisen, concur in the Appointment of an Arbitrator; or if any appointed Arbitrator refuse to act, or become incapable of acting, or die, and the Terms of such Document do not show that it was intended that such Vacancy should not be supplied, and the Parties do not concur in appointing a new one; or if, where the Parties or Two Arbitrators are at liberty to appoint an Umpire or Third Arbitrator, such Parties or Arbitrators do not appoint an Umpire or Third Arbitrator; or if any appointed Umpire or Third Arbitrator refuse to act, or become incapable of acting, or die, and the Terms of the Document authorizing the Reference do not show that it was intended that such a Vacancy should not be supplied, and the Parties or Arbitrators respectively do not appoint a new one; then in every such Instance any Party may serve the remaining Parties or the Arbitrators, as the Case may be, with a written Notice to appoint an Arbitrator, Umpire, or Third Arbitrator respectively; and if within *Seven* clear Days after such Notice shall have been served no Arbitrator, Umpire, or Third Arbitrator be appointed, it shall be lawful for the Court or any Judge of any of the Superior Courts of Law or Equity at Dublin, upon the Application of the Party having served such Notice as aforesaid, to appoint an Arbitrator, Umpire, or Third Arbitrator, as the Case may be, and such Arbitrator, Umpire, and Third Arbitrator respectively shall have the like Power to act in the Reference and make an Award as if he had been appointed by Consent of all Parties.

When Reference is to Two Arbitrators and One Party fail to appoint, other Party may appoint Arbitrator to act alone.

XV. When the Reference is or is intended to be to Two Arbitrators, One appointed by each Party, it shall be lawful for either Party, in the Case of the Death, Refusal to act, or Incapacity of any Arbitrator appointed by him, to substitute a new Arbitrator, unless the Document authorizing the Reference show that it was intended that the Vacancy should not be supplied; and if on such Reference One Party fail to appoint an Arbitrator, either originally or by way of Substitution as aforesaid, for *Seven* clear Days after the other Party shall have appointed an Arbitrator, and shall have served the Party so failing to appoint with Notice in Writing to make the Appointment, the Party who has appointed an Arbitrator may appoint such Arbitrator to act as sole Arbitrator in the Reference, and an Award made by him shall be binding on both Parties as if the Appointment had been by Consent; provided, however, that the Court or a Judge may revoke such Appointment, on such Terms as shall seem just.

Two Arbitrators may appoint Umpire.

XVI. When the Reference is to Two Arbitrators, and the Terms of the Document authorizing it do not show that it was intended that there should not be an Umpire, or provide otherwise for the Appointment of an Umpire, the Two Arbitrators may appoint an Umpire at any Time within the Period during which they have Power to make an Award, unless they be called upon by Notice as aforesaid to make the Appointment sooner.

Award to be made in Three Months unless Parties or Court enlarge Time.

XVII. The Arbitrator acting under any such Document or compulsory Order of Reference as aforesaid, or under any Order referring the Award back, shall make his Award under his Hand, and (unless such Document or Order respectively shall contain a different Limit of Time) within *Three* Months after he shall have been appointed, and shall have entered on the Reference, or shall have been called upon to act by a Notice in Writing from any Party, but the Parties may by Consent in Writing enlarge the Term for making the Award; and it shall be lawful for the Court of which such Submission, Document, or Order is or may be made a Rule or Order, or for any Judge thereof, for good Cause to be stated in the Rule or Order for Enlargement, from Time to Time to enlarge the Term for making the Award; and if no Period be stated for the Enlargement in such Consent or Order for Enlargement, it shall be deemed to be an Enlargement for *One Month;* and in any Case where an Umpire shall have been appointed it shall be lawful for him to enter on the Reference in lieu of the Arbitrators, if the latter shall have allowed their Time or their extended Time to expire without making an Award, or shall have delivered to any Party or to the Umpire a Notice in Writing stating that they cannot agree.

Rule to deliver Possession of Land pursuant to Award to be enforced as a Judgment in Ejectment.

XVIII. When any Award made on any such Submission, Document, or Order of Reference as aforesaid directs that Possession of any Lands or Tenements capable of being the Subject of an Action of Ejectment shall be delivered to any Party, either forthwith or at any future Time, or that any such Party is entitled to the Possession of any such Lands or Tenements, it shall be lawful for the Court of which the Document authorizing the Reference is or is made a

Rule or Order to order any Party to the Reference who shall be in possession of any such Lands or Tenements, or any Person in possession of the same claiming under or put in possession by him since the making of the Document authorizing the Reference, to deliver Possession of the same to the Party entitled thereto, pursuant to the Award, and such Rule or Order to deliver Possession shall have the Effect of a Judgment in Ejectment against every such Party or Person named in it, and Execution may issue, and Possession shall be delivered by the Sheriff as on a Judgment in Ejectment.

Agreement or Submission in Writing may be made Rule of Court, unless a contrary Intention appear.

XIX. Every Agreement or Submission to Arbitration by Consent, whether by Deed or Instrument in Writing, not under Seal, may be made a Rule of any One of the Superior Courts of Law or Equity at Dublin, on the Application of any Party thereto, unless such Agreement or Submission contain Words purporting that the Parties intend that it should not be made a Rule of Court; and if in any such Agreement or Submission it is provided that the same shall or may be made a Rule of One in particular of such Superior Courts, it may be made a Rule of that Court only; and if when there is no such Provision a Case be stated in the Award for the Opinion of One of the Superior Courts, and such Court be specified in the Award, and the Document authorizing the Reference have not, before the Publication of the Award to the Parties, been made a Rule of Court, such Document may be made a Rule only of the Court specified in the Award; and when in any Case the Document authorizing the Reference is or has been made a Rule or Order of any One of such Superior Courts, no other of such Courts shall have any Jurisdiction to entertain any Motion respecting the Arbitration or Award.

Grounds to be stated in Rule Nisi for New Trial.

XX. In every Rule Nisi for a new Trial or to enter a Verdict or Nonsuit, the Grounds upon which such Rule shall have been granted shall be shortly stated therein.

If Rule Nisi refused, Party may appeal.

XXI. In all Cases of Rules to enter a Verdict or Nonsuit upon a Point reserved at the Trial, if the Rule to show Cause be refused or granted and then discharged, or made absolute, the Party decided against may appeal.

Appeal upon Rule discharged or absolute.

XXII. In all Cases of Motions for a new Trial upon the Ground that the Judge has not ruled according to Law, if the Rule to show Cause be refused, or if granted be then discharged or made absolute, the Party decided against may appeal, provided any One of the Judges dissent from the Rule being refused, or, when granted, being discharged or made absolute, as the Case may be, or, provided the Court in its Discretion think fit that an Appeal should be allowed;

provided, that where the Application for a new Trial is upon Matter of Discretion only, as on the Ground that the Verdict was against the Weight of Evidence or otherwise, no such Appeal shall be allowed.

Courts of Error to be Courts of Appeal.

XXIII. The Court of Exchequer Chamber and the House of Lords shall be Courts of Appeal for the Purposes of this Act.

Notice of Appeal.

XXIV. No Appeal shall be allowed unless Notice thereof be given in Writing to the opposite Party or his Attorney, and to One of the Maſters of the Court, within *Four* Days after the Decision complained of, or such further Time as may be allowed by the Court or a Judge.

Bail.

XXV. Notice of Appeal shall be a Stay of Execution, provided Bail to pay the Sum recovered and Costs, or to pay Costs where the Appellant was Plaintiff below, be given, in like Manner and to the same Amount as Bail in Error, within *Eight* Days after the Decision complained of, or before Execution delivered to the Sheriff.

Form of Appeal.

XXVI. The Appeal herein-before mentioned shall be upon a Case to be stated by the Parties, (and in case of Difference, to be settled by the Court or a Judge of the Court appealed from,) in which Case shall be set forth so much of the Pleadings, Evidence, and the Ruling or Judgment objected to, as may be necessary to raise the Question for the Decision of the Court of Appeal.

Rule Nisi granted on Appeal, how disposed of.

XXVII. When the Appeal is from the Refusal of the Court below to grant a Rule to show Cause, and the Court of Appeal grant such Rule, such Rule shall be argued and disposed of in the Court of Appeal.

XXVIII. The Court of Appeal shall give such Judgment as ought to have been given in the Court below; and all such further Proceedings may be taken thereupon as if the Judgment had been given by the Court in which the Record originated.

Powers of Court of Appeal as to Costs and otherwise.

XXIX. The Court of Appeal shall have Power to adjudge Payment of Costs, and to order Restitution; and they shall have the same Powers as the Court in which the Record originated in respect of awarding Process and otherwise.

Error upon Award of Trial de novo.

XXX. Upon an Award of a Trial *de novo* by any One of the Superior Courts, upon Matter appearing upon the Record, Error may at once be brought; and if the Judgment in such or any other Case be affirmed in Error, it shall be lawful for the Court of Error to adjudge Costs to the Defendant in Error.

XXXI. When a new Trial is granted, on the Ground that the Verdict was against Evidence, the Costs of the First Trial shall abide the Event, unless the Court shall otherwise order.

Payment of Costs upon new Trial on Matter of Fact.

XXXII. Upon Motions founded upon Affidavits it shall be lawful for either Party, with Leave of the Court or a Judge, to make Affidavits in answer to the Affidavits of the opposite Party, upon any new Matter arising out of such Affidavits, subject to all such Rules as shall hereafter be made respecting such Affidavits.

Affidavits on new Matter.

XXXIII. Upon the Hearing of any Motion it shall be lawful for the Court or Judge, at their or his Discretion, and upon such Terms as they or he shall think reasonable, from Time to Time to order such Documents as they or he may think fit to be produced, and such Witnesses as they or he may think necessary to appear, and be examined vivâ voce, either before such Court or Judge, or before the Master, and upon hearing such Evidence, or reading the Report of such Master, to make such Rule or Order as may be just.

Power to Court or Judge to direct oral Examination of Witnesses.

XXXIV. The Court or Judge may by such Rule or Order, or any subsequent Rule or Order, command the Attendance of the Witnesses named therein, for the Purpose of being examined, or the Production of any Writings or other Documents to be mentioned in such Rule or Order; and such Rule or Order shall be proceeded upon in the same Manner, and shall have the same Force and Effect, as a Rule of the Court under the Act of the Third and Fourth Victoria, Chapter One hundred and five; and it shall be lawful for the Court, or Judge, or Master to adjourn the Examination from Time to Time as Occasion may require; and the Proceedings upon such Examination shall be conducted, and the Depositions taken down, as nearly as may be, in the Mode now in use with respect to the vivâ voce Examination of Witnesses under the last-mentioned Act.

Proceedings before and upon such Examination.

3 & 4 Vict. c. 105.

XXXV. Any Party to any Civil Action or other Civil Proceeding in any of the Superior Courts, requiring the Affidavit of a Person who refuses to make an Affidavit, may apply by Notice for an Order to such Person to appear and be examined upon Oath before a Judge or Master, to whom it may be most convenient to refer such Examination, as to the Matters concerning which he has refused to make an Affidavit; and the Court or Judge may, if he think fit, make such Order for the Attendance of such Person before the Person therein appointed to take such Examination, for the Purpose of being examined as aforesaid, and for the Production of any Writings or Documents to be mentioned in such Order, and may therein impose such Terms as to such Examination,

Examination of Person who refuses to make an Affidavit.

tion, and the Costs of the Application and Proceedings thereon, as he shall think just.

Proceedings upon Order for Examination.

3 & 4 Vict. c. 105.

XXXVI. Such Order shall be proceeded upon in like Manner as an Order made under the herein-before mentioned Act of the Third and Fourth Victoria, Chapter One hundred and five, and the Examination thereon shall be conducted, and the Depositions taken down and returned, as nearly as may be, in the Mode now used on vivâ voce Examinations under the said Act of Parliament.

Discovery of Documents.

XXXVII. Upon the Application of either Party to any Cause or other Civil Proceeding in any of the Superior Courts, upon an Affidavit by such Party of his Belief that any Document, to the Production of which he is entitled for the Purpose of Discovery or otherwise, is in the Possession or Power of the opposite Party, it shall be lawful for the Court or Judge to order that the Party against whom such Application is made, or if such Party is a Body Corporate that some Officer to be named of such Body Corporate, shall answer on Affidavit, stating what Documents he or they has or have in his or their Possession or Power relating to the Matters in dispute, or what he knows as to the Custody they or any of them are in, and whether he or they objects or object (and if so, on what Grounds,) to the Production of such as are in his or their Possession or Power; and upon such Affidavit being made the Court or Judge may make such further Order thereon as shall be just.

Power to deliver written Interrogatories to opposite Party.

XXXVIII. In all Causes in any of the Superior Courts, by Order of the Court or a Judge, the Plaintiff may, with the Writ of Summons and Plaint, and the Defendant may, with the Appearance and Defence, or either of them, by Leave of the Court or a Judge, may, at any other Time, deliver to the opposite Party or his Attorney (provided such Party, if not a Body Corporate, would be liable to be called and examined as a Witness upon such Matter) Interrogatories in Writing upon any Matter as to which Discovery may be sought, and require such Party, or in the Case of a Body Corporate any of the Officers of such Body Corporate, within *Ten* Days, to answer the Questions in Writing by Affidavit, to be sworn and filed in the ordinary Way; and any Party or Officer omitting, without just Cause, sufficiently to answer all Questions as to which a Discovery may be sought within the above Time, or such extended Time as the Court or a Judge shall allow, shall be deemed to have committed a Contempt of the Court, and shall be liable to be proceeded against accordingly.

Affidavits by Party proposing to

XXXIX. The Application for such Order shall be made upon an Affidavit of the Party proposing to interrogate, and his Attorney or Agent, or, in the Case of a Body Corporate, of their Attorney or Agent, stating that the Deponents or Deponent believe or believes that the Party proposing to interrogate, whether Plaintiff or Defendant, will derive material Benefit in the Cause from the Discovery which he seeks, that there is a good Cause of Action or Defence upon the Merits, and, if the Application be made on the Part of the Defendant, that the Discovery is not sought for the Purpose of Delay; provided that where it shall happen, from unavoidable Circumstances, that the Plaintiff or Defendant cannot join in such Affidavit, the Court or Judge may, if they or he think fit, upon Affidavit of such Circumstances by which the Party is prevented from so joining therein, allow and order that the Interrogatories may be delivered without such Affidavit.

interrogate, and his Attorney.

Oral Examination of Parties, when to be allowed.

XL. In Case of Omission, without just Cause, to answer sufficiently such written Interrogatories, it shall be lawful for the Court or a Judge, at their or his Discretion, to direct an oral Examination of the interrogated Party, as to such Points as they or he may direct, before a Judge or Master; and the Court or Judge may by such Rule or Order, or any subsequent Rule or Order, command the Attendance of such Party or Parties before the Person appointed to take such Examination, for the Purpose of being orally examined as aforesaid, or the Production of any Writings or other Documents to be mentioned in such Rule or Order, and may impose therein such Terms as to such Examination, and the Costs of the Application, and of the Proceedings thereon, and otherwise, as to such Court or Judge shall seem just.

Proceedings upon such Rule or Order.

XLI. Such Rule or Order shall have the same Force and Effect, and may be proceeded upon in like Manner, as an Order made under the said herein-before mentioned Act of the Third and Fourth Victoria, Chapter One hundred and five.

Depositions upon such Examinations to be returned to Master's Office.

XLII. Whenever, by virtue of this Act, an Examination of any Witness or Witnesses has been taken before a Judge of One of the said Superior Courts, or before a Master, the Depositions taken down by such Examiner shall be returned to and kept in the Master's Office of the Court in which the Proceedings are pending; and Office Copies of such Depositions may be given out, and the Depositions may be otherwise used, in the same Manner as in the Case of Depositions taken under the herein-before mentioned Act of the Third and Fourth Victoria, Chapter One hundred and five.

Examiner may make Report to the Court.

XLIII. It shall be lawful for every Judge or Master named in any such Rule or Order as aforesaid for taking Examinations under this Act, and he is hereby required to make, if need be, a special Report to the Court in which such Proceedings are pending, touching such Examination, and the Conduct or Absence of any Witness or other Person thereon or relating thereto; and the Court is hereby authorized to institute such Proceedings and make such Order and Orders upon such Report as Justice may require, and as may be instituted and made in any Case of Contempt of the Court.

Costs of Rule and Examination to be in the Discretion of the Court.

XLIV. The Costs of every Application for any Rule or Order to be made for the Examination of Witnesses by virtue of this Act, and of the Rule or Order and Proceedings thereon, shall be in the Discretion of the Court or Judge by whom such Rule or Order is made.

Examination of Judgment Debtor as to Debts due to him.

XLV. It shall be lawful for any Creditor who has obtained a Judgment in any of the Superior Courts to apply to the Court or a Judge for a Rule or Order that the Judgment Debtor should be orally examined as to any and what Debts are owing to him before a Master of the Court, or such other Person as the Court or Judge shall appoint; and the Court or Judge may make such Rule or Order for the Examination of such Judgment Debtor, and for the Production of any Books or Documents, and the Examination shall be conducted in the same Manner as in the Case of an oral Examination of an opposite Party before a Master under this Act.

Judge may order an Attachment of Debts.

XLVI. It shall be lawful for a Judge, upon the ex parte Application of such Judgment Creditor, either before or after such oral Examination, and upon Affidavit by himself or his Attorney stating that Judgment has been recovered, and that it is still unsatisfied, and to what Amount, and that any other Person is indebted to the Judgment Debtor, and is within the Jurisdiction, to order that all Debts owing or accruing from such Third Person (herein-after called the Garnishee) to the Judgment Debtor shall be attached to answer the Judgment Debt; and by the same or any subsequent Order it may be ordered that the Garnishee shall appear before the Judge or a Master of the Court, as such Judge shall appoint, to show Cause why he should not pay the Judgment Creditor the Debt due from him to the Judgment Debtor, or so much thereof as may be sufficient to satisfy the Judgment Debt.

Order for Attachment to bind Debts.

XLVII. Service of an Order that Debts due or accruing to the Judgment Debtor shall be attached, or Notice thereof to the Garnishee, in such Manner as the Judge shall direct, shall bind such Debts in his Hands.

XLVIII. If the Garnishee does not forthwith pay into Court the Amount due from him to the Judgment Debtor, or an Amount equal to the Judgment Debt, and does not dispute the Debt due or claimed to be due from him to the Judgment Debtor, or if he does not appear upon Summons, then the Judge may order Execution to issue, and it may be sued forth accordingly, without any previous Writ or Process, to levy the Amount due from such Garnishee towards Satisfaction of the Judgment Debt.

Proceedings to levy Amount due from Garnishee to Judgment Debtor.

XLIX. If the Garnishee disputes his Liability, the Judge, instead of making an Order that Execution shall issue, may order that the Judgment Creditor shall be at liberty to proceed against the Garnishee by Writ, calling upon him to show cause why there should not be Execution against him for the alleged Debt, or for the Amount due to the Judgment Debtor, if less than the Judgment Debt, and for Costs of Suit; and the Proceedings upon such Suit shall be the same, as nearly as may be, as upon a Writ of Revivor issued under "The Common Law Procedure Act Amendment Act, Ireland, 1853."

Judge may allow Judgment Creditor to sue Garnishee.

L. Payment made by or Execution levied upon the Garnishee under any such Proceeding as aforesaid shall be a valid Discharge to him as against the Judgment Debtor to the Amount paid or levied, although such Proceeding may be set aside or the Judgment reversed.

Garnishee discharged.

LI. In each of the Superior Courts there shall be kept at the Master's Office a Debt Attachment Book, and in such Book Entries shall be made of the Attachment and Proceedings thereon, with Names, Dates, and Statements of the Amount recovered, and otherwise; and the Mode of keeping such Books shall be the same in all the Courts; and Copies of any Entries made therein may be taken by any Person, upon Application to any Master.

Attachment Book to be kept by the Masters of each Court.

LII. The Costs of any Application for an Attachment of Debt under this Act, and of any Proceedings arising from or incidental to such Application, shall be in the Discretion of the Court or a Judge.

Costs of Application.

LIII. The Plaintiff in any Action in any of the Superior Courts, except Replevin and Ejectment, may claim in the Writ of Summons and Plaint, either together with any other Demand which may now be enforced in such Action, or separately, a Writ of Mandamus commanding the Defendant to fulfil any Duty in the Fulfilment of which the Plaintiff is personally interested.

Action for Mandamus to enforce the Performance of Duties.

LIV. The

Declaration in Action for Mandamus.

LIV. The Writ of Summons and Plaint in such Action shall set forth sufficient Grounds upon which such Claim is founded, and shall set forth that the Plaintiff is personally interested therein, and that he sustains or may sustain Damage by the Nonperformance of such Duty, and that Performance thereof has been demanded by him, and refused or neglected.

Proceedings upon Claim for Mandamus.

LV. The Pleadings and other Proceedings in any Action in which a Writ of Mandamus is claimed shall be the same in all respects, as nearly as may be, and Costs shall be recoverable by either Party, as in an ordinary personal Action.

Judgment and Execution.

LVI. In case Judgment shall be given to the Plaintiff that a Mandamus do issue, it shall be lawful for the Court in which such Judgment is given, if it shall see fit, besides issuing Execution in the ordinary Way for the Costs and Damages, also to issue a peremptory Writ of Mandamus to the Defendant, commanding him forthwith to perform the Duty to be enforced.

Form of peremptory Writ.

LVII. The Writ need not recite the Writ of Summons and Plaint, or other Proceedings, or the Matter therein stated, but shall simply command the Performance of the Duty, and in other respects shall be in the Form of an ordinary Writ of Execution, except that it shall be directed to the Party and not to the Sheriff, and may be issued in Term or Vacation, and returnable forthwith; and no Return thereto, except that of Compliance, shall be allowed, but Time to return it may, upon sufficient Grounds, be allowed by the Court or a Judge, either with or without Terms.

Effect of Writ of Mandamus and Proceedings to enforce it.

LVIII. The Writ of Mandamus so issued as aforesaid shall have the same Force and Effect as a peremptory Writ of Mandamus issued out of the Court of Queen's Bench, and in case of Disobedience may be enforced by Attachment.

The Court may order the Act to be done at the Expense of the Defendant.

LIX. The Court or a Judge may, upon Application by the Plaintiff, besides or instead of proceeding against the disobedient Party by Attachment, direct that the Act required to be done may be done by the Plaintiff, or some other Person appointed by the Court, at the Expense or the Defendant; and upon the Act being done, the Amount of such Expense may be ascertained by the Court, either by Writ of Inquiry or Reference to a Master, as the Court or a Judge may order; and the Court may order Payment of the Amount of such Expenses and Costs, and enforce Payment thereof by Execution.

Prerogative Writ of Mandamus preserved.

LX. Nothing herein contained shall take away the Jurisdiction of the Court of Queen's Bench to grant Writs of Mandamus; nor shall any Writ of Mandamus issued out of that Court be invalid by reason of the Right of the Prosecutor to proceed by Action for Mandamus under this Act.

Proceedings for Prerogative Writ of Mandamus accelerated.

LXI. Upon Application by Motion for any Writ of Mandamus in the Court of Queen's Bench, the Rule may in all Cases be absolute in the first instance, if the Court shall think fit; and the Writ may bear Teste on the Day of its issuing, and may be made returnable forthwith, whether in Term or in Vacation, but Time may be allowed to return it, by the Court or a Judge, either with or without Terms.

Proceedings on Prerogative Writ of Mandamus.

LXII. The Provisions of "The Common Law Procedure Amendment Act Ireland, 1853," and of this Act, so far as they are applicable, shall apply to the Pleadings and Proceedings upon a Prerogative Writ of Mandamus issued by the Court of Queen's Bench.

Specific Delivery of Chattels.

LXIII. The Court or a Judge shall have Power, if they or he see fit so to do, upon the Application of the Plaintiff in any Action for the Detention of any Chattel, to order that Execution shall issue for the Return of the Chattel detained, without giving the Defendant the Option of retaining such Chattel upon paying the Value assessed, and that if the said Chattel cannot be found, and unless the Court or a Judge should otherwise order, the Sheriff shall distrain the Defendant by all his Lands and Chattels in the said Sheriff's Bailiwick, till the Defendant render such Chattel, or, at the Option of the Plaintiff, that he cause to be made of the Defendant's Goods the Assessed Value of such Chattel; provided that the Plaintiff shall, either by the same or a separate Writ of Execution, be entitled to have made of the Defendant's Goods the Damages, Costs, and Interest in such Action.

Claim of Writ of Injunction.

LXIV. In all Cases of Breach of Contract or other Injury, where the Party injured is entitled to maintain and has brought an Action, he may, in like Case and Manner as herein-before provided with respect to Mandamus, claim a Writ of Injunction against the Repetition or Continuance of such Breach of Contract or other Injury, or the Committal of any Breach of Contract or Injury of a like kind, arising out of the same Contract, or relating the same Property or Right; and he may also in the same Action include a Claim for Damages or other Redress.

Form of Writ of Summons and En-

LXV. The Writ of Summons and Plaint in such Action shall be in the same Form as the Writ of Summons and Plaint in any Personal dorsement thereon.

Action, but on every such Writ and Copy thereof there shall be endorsed a Notice that in Default of Appearance the Plaintiff may, besides proceeding to Judgment and Execution for Damages and Costs, apply for and obtain a Writ of Injunction.

Form of Proceedings and of Judgment.

LXVI. The Proceedings in such Action shall be the same, as nearly as may be, and subject to the like Control, as the Proceedings in an Action to obtain a Mandamus under the Provisions herein-before contained; and in such Action Judgment may be given that the Writ of Injunction do or do not issue, as Justice may require; and in case of Disobedience such Writ of Injunction may be enforced by Attachment by the Court or by a Judge.

Writ of Injunction may be applied for at any Stage of the Cause.

LXVII. It shall be lawful for the Plaintiff at any Time after the Commencement of the Action, and whether before or after Judgment, to apply ex parte to the Court or a Judge for a Writ of Injunction to restrain the Defendant in such Action from the Repetition or Continuance of the wrongful Act or Breach of Contract complained of, or the Committal of any Breach of Contract or Injury of a like kind, arising out of the same Contract, or relating to the same Property or Right; and such Writ may be granted or denied by the Court or Judge upon such Terms as to the Duration of the Writ, keeping an Account, giving Security, or otherwise, as to such Court or Judge shall seem reasonable and just, and in case of Disobedience such Writ may be enforced by Attachment by the Court or by a Judge: Provided always, that any Order for a Writ of Injunction made by a Judge, or any Writ issued by virtue thereof, may be discharged or varied or set aside by the Court, on Application made thereto by any Party dissatisfied with such Order.

Equitable Defence may be pleaded.

LXVIII. It shall be lawful for the Defendant or Plaintiff in any Action for Replevin of Goods in any of the Superior Courts in which, if Judgment were obtained, he would be entitled to Relief against such Judgment on equitable Grounds, to plead the Facts which entitle him to such Relief, and the said Courts are hereby empowered to receive such Pleading; provided that such Pleading shall begin with the Words "For Defence on equitable Grounds," or Words to the like Effect.

Equitable Defence after Judgment.

LXIX. Any such Matter which, if it arose before or during the Time for pleading, would be an Answer to the Action if pleaded, may, if it arise after the Lapse of the Period during which it could be pleaded, be set up by way of Auditâ querelâ.

Equitable Replication.

LXX. It shall be lawful for the Court to permit the Plaintiff to reply, in answer to any Pleading of the Defendant, Facts which avoid such Pleading upon equitable Grounds; provided that such Replication shall begin with the Words "For Replication on equitable Grounds," or Words to the like Effect.

Court or Judge may strike out equitable Plea or Replication.

LXXI. Provided always, That in case it shall appear to the Court, or any Judge thereof, that any such equitable Pleading or equitable Replication cannot be dealt with by a Court of Law so as to do Justice between the Parties, it shall be lawful for such Court or Judge to order the same to be struck out on such Terms, as to Costs and otherwise, as to such Court or Judge may seem reasonable.

Actions on lost Instruments.

LXXII. In case of any Action founded upon a Bill of Exchange or other negotiable Instrument, it shall be lawful for the Court or a Judge to order that the Loss of such Instrument shall not be set up, provided an Indemnity is given, to the Satisfaction of the Court or Judge, or a Master, against the Claims of any other Person upon such negotiable Instrument.

Jurisdiction under Ship owners Act.

53 G. 3. c. 159.

LXXIII. The Superior Courts or any Judge thereof may, upon summary Application, by Rule or Order, exercise such and the like Jurisdiction as may, under the Provisions of an Act of Parliament made and passed in the Fifty-third Year of the Reign of His Majesty King George the Third, intituled "An Act to limit the Responsibility "of Shipowners in certain Cases," be exercised by any Court of Equity.

False Evidence.

LXXIV. Any Person who shall, upon any Examination upon Oath or Affirmation, or in any Affidavit in Proceedings under this Act, wilfully and corruptly give false Evidence, or wilfully and corruptly swear or affirm anything which shall be false, being convicted thereof, shall be liable to the Penalties of wilful and corrupt Perjury.

Execution to fix Bail.

LXXV. Writs of Execution to fix Bail may be tested and returnable in Vacation.

Scire facias on Judgment of Assets in futuro.

LXXVI. Proceedings against Executors upon a Judgment of Assets in futuro may be had and taken in the Manner provided by "The Common Law Procedure Amendment Act (Ireland), 1853," as to Writs of Revivor.

To compel Continuance or Abandonment of Action in case of Death.

LXXVII. Where an Action would, but for the Provisions of "The Common Law Procedure Amendment Act (Ireland), 1853," have abated by reason of the Death of either Party, and in which the Proceedings may be revived and continued under that Act, the Defendant or Person against whom the Action may be so continued may apply by Notice to compel the Plaintiff, or Person entitled to proceed with the Action in the Room of the Plaintiff, to proceed according to the Provisions of the said Act within such Time as the Court or Judge shall order; and in default of such Proceeding the Defendant or other Person against whom the Action may be so continued as aforesaid shall be entitled to enter a Suggestion of such Default, and of the representative Character of the Person by or against whom the Action may be proceeded with, as the Case may be, and to have Judgment for the Costs of the Action and Suggestion against the Plaintiff, or against the Person entitled to proceed in his Room, as the Case may be, and in the latter Case to be levied of the Goods of the Testator or Intestate.

Claimant in Second Ejectment for same Premises against same Defendant may be ordered to give Security for Costs.

LXXVIII. If any Person shall bring an Action of Ejectment after a prior Action of Ejectment for the same Premises has been or shall have been unsuccessfully brought by such Person, or by any Person through or under whom he claims against the same Defendant, or against any Person through or under whom he defends, the Court or a Judge may, if they or he think fit, on the Application of the Defendant at any Time after such Defendant has appeared to the Writ, order that the Plaintiff shall give to the Defendant Security for the Payment of the Defendant's Costs, and that all further Proceedings in the Cause shall be stayed until such Security be given, whether the prior Action has been or shall have been disposed of by Discontinuance, or by Nonsuit, or by Judgment for the Defendant.

Courts may appoint Sittings.

LXXIX. Section CCXXXIX of "The Common Law Procedure Amendment Act (Ireland), 1853," is hereby repealed, and the Superior Courts may appoint and hold Sittings either in Banc, or for the Trial of Issues in Fact by Judge or Jury, at any Time or Times, whether in Term or Vacation, not being between the *Tenth* of August and the *Twentieth* of October.

Limitation of Costs in certain Cases.

LXXX. If in any Action ex contraitor brought after the Commencement of this Act in the Superior Courts, (save for Breach of Promise of Marriage,) when the Parties reside within the Jurisdiction of the Civil Bill Court of the County in which the Cause of Action has arisen, the Plaintiff shall recover, exclusive of Costs, a Sum not exceeding Twenty Pounds, or in any Action for a Tort (not being for Replevin of Goods, Slander, Libel, Malicious Prosecution, Seduction, or Criminal Conversation with a Man's Wife,) a Sum not exceeding Five Pounds, the Plaintiff in any such Action shall not be entitled to any Costs, unless at the Trial of such Cause the Judge shall certify on the Back of the Record, either that the Case was one which could not have been tried in the Civil Bill Court, or that although within [illegible] the Jurisdiction of the Civil Bill Court, it nevertheless was a fit Case to be tried in One of such Superior Courts, or (in case there shall be no Trial) unless the Court or a Judge shall on Motion make an Order to the like Effect; and in case there shall be no such Certificate or Order, it shall not be necessary to enter any Suggestion on the Record to deprive such Plaintiff of Costs.

Commencement of Act.

LXXXI. The Provisions of this Act shall come into operation on the Day of in the Year of our Lord *One thousand eight hundred and fifty-six.*

Act not to extend to England or Scotland.

LXXXII. Nothing in this Act shall extend to *England* or *Scotland*, save as aforesaid.

Courts of Common Law.
(Ireland).

A

BILL

To further amend the Procedure in and to enlarge the Jurisdiction of the Superior Courts of Common Law in Ireland.

(Prepared and brought in by
Mr. Attorney General for Ireland, and
Mr. Solicitor General for Ireland.)

Ordered, by The House of Commons, *to be Printed,*
5 *February* 1856.

[Bill 17.]

Under 3 oz.

1 *April* 1856. 19 Vict.

(Ireland).

A

BILL

[AS AMENDED IN COMMITTEE]

TO

Further amend the Procedure in and to enlarge the Jurisdiction of the Superior Courts of Common Law in Ireland.

[Note.—*The Clauses* A. *to* U. *were added in Committee.*]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title of Act.

I. This Act may be cited for all Purposes as the "Common Law Procedure Amendment Act (Ireland), 1856."

Incorporation of Acts.

II. This Act and "The Common Law Procedure Amendment Act (Ireland), 1853," shall be incorporated and construed together as One Act.

Clause A.
Repeal of 18 & 19 Vict. c. 7. and so much of Sect. 103. of "The Common Law Procedure Act, 1848," as relates to Ireland.

III. The Act of the Eighteenth and Nineteenth Victoria, Chapter Seven, and so much of Section One hundred and three of "The Common Law Procedure Act, 1854," as provides that the Enactments in the said Section enumerated shall apply and extend to every Court of Civil Judicature in Ireland, are hereby repealed.

Judge may, by Consent, try Ques-

IV. The Parties to any Cause may, by Consent in Writing, signed by them or their Attorneys, as the Case may be, leave the Decision of tions of Fact.

of any Issue of Fact to the Court, provided that the Court, or a Judge, shall, in their or his Discretion, think fit to allow such Trial; or provided the Judges of the Superior Courts of Law at Dublin shall, in pursuance of the Power in "The Common Law Procedure Amendment Act (Ireland), 1853," contained, make any General Rule or Order dispensing with such Allowance, either in all Cases or any particular Class or Classes of Cases to be defined in such Rule or Order; and such Issue of Fact may thereupon be tried and determined, and Damages assessed where necessary, in open Court, either in Term or Vacation, by any Judge who might otherwise have presided at the Trial thereof by Jury, either with or without the Assistance of any other Judge or Judges of the same Court, or included in the same Commission at the Assizes; and the Verdict of such Judge or Judges shall be of the same Effect as the Verdict of a Jury, save that it shall not be questioned upon the Ground of being against the Weight of Evidence; and the Proceedings upon and after such Trial, as to the Power of the Court or Judge, the Evidence, and otherwise, shall be the same as in the Case of Trial by Jury.

Two Judges may sit at the same Time for Trial of Causes pending in the same Court.

V. It shall be lawful for any One of the Judges of any of the Superior Courts at Dublin, at the Request of the Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, to try the Causes entered for Trial at Nisi Prius in Dublin in any of the Courts, on the same Days on which the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, or any other Judge of the same Court, shall be sitting to try Causes at Dublin, so that the Trial of Two Causes may be proceeded with at the same Time; and all Jurors, Witnesses, and other Persons who may have been summoned or required to attend at or for the Trial of any Cause before the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, as the Case may be, shall give their Attendance at and for the Trial thereof before such other Judge as may be sitting to try the same by virtue of this Act; and it shall be lawful for the Registrars and other Officers of the Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, as the Case may be, to appoint from Time to Time fit and proper Persons, to be approved by the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, to attend for them and on their Behalf respectively before such Judge; and the Trial of every Cause which shall be so had by virtue of this Act shall, if necessary, be entered of Record, as having been had before the Judge by whom such Cause in fact was tried.

Power to Court or Judge to

VI. If it be made appear, at any Time after the issuing of the Writ, to the Satisfaction of the Court or a Judge, upon the Application of either Party, that the Matter in dispute consists wholly or in part of Matters of mere Account which cannot conveniently be tried in the ordinary Way, it shall be lawful for such Court or Judge, upon such Application, if they or he think fit, to decide such Matter in a summary Manner, or to order that such Matter, either wholly or in part, be referred to an Arbitrator appointed by the Parties, or to the Master of the Court, or, in Country Causes, to the Assistant Barrister of any County, upon such Terms, as to Costs and otherwise, as such Court or Judge shall think reasonable; and the Decision or Order of such Court or Judge, or the Award or Certificate of such Referee, shall be enforceable by the same Process as the Finding of a Jury upon the Matter referred.

direct Arbitration before Trial.

Special Case may be stated, and Question of Fact tried.

VII. If it shall appear to the Court or a Judge that the Allowance or Disallowance of any particular Item or Items in such Account depends upon a Question of Law fit to be decided by the Court, or upon a Question of Fact fit to be decided by a Jury, or by a Judge upon the Consent of both Parties as herein-before provided, it shall be lawful for such Court or Judge to direct a Case to be stated, or an Issue or Issues to be tried; and the Decision of the Court upon such Case, and the Finding of the Jury or Judge upon such Issue or Issues, shall be taken and acted upon by the Arbitrator, Master, or Assistant Barrister, as the Case may be, as conclusive.

Arbitrator may state Special Case.

VIII. It shall be lawful for the Arbitrator, Master, or Assistant Barrister, upon any compulsory Reference under this Act, or upon any Reference by Consent of Parties where the Submission is or may be made a Rule or Order of any of the Superior Courts of Law or Equity at Dublin, if he shall think fit, and if it is not provided to the contrary, to state his Award, as to the whole or any Part thereof, in the Form of a Special Case for the Opinion of the Court, and when an Action is referred, Judgment, if so ordered, may be entered according to the Opinion of the Court.

Power to Judge to direct Arbitration at Time of Trial, when Issues of Fact left to his Decision.

IX. If upon the Trial of any Issue of Fact by a Judge under this Act it shall appear to the Judge that the Questions arising thereon involve Matter of Account which cannot conveniently be tried before him, it shall be lawful for him, at his Discretion, to order that such Matter of Account be referred to an Arbitrator appointed by the Parties, or to the Master of the Court, or, in Country Causes, to the Assistant Barrister of any County, upon such Terms, as to Costs and otherwise, as such Judge shall think reasonable; and the Award or Certificate of such Referee shall have the same Effect as herein-before provided as to the Award or Certificate of a Referee before Trial; and it shall be competent for the Judge to proceed to try and dispose of any other Matters in question, not referred, in like Manner as if no Reference had been made.

Proceedings before and Power of such Arbitrator.

X. The Proceedings upon any such Arbitration or Reference as aforesaid shall, except otherwise directed hereby or by the Submission or Document authorizing the Reference, be conducted in like Manner, and subject to the same Rules and Enactments, as to the Power of the Arbitrator, Master of the Court, or Assistant Barrister, and of the Court, the Attendance of Witnesses, the Production of Documents, enforcing or setting aside the Award, and otherwise, as upon a Reference made by Consent under a Rule of Court or Judge's Order.

Power to send back to Arbitrator.

XI. In any Case where Reference shall be made to Arbitration as aforesaid the Court or a Judge shall have Power at any Time, and from Time to Time, to remit the Matters referred, or any or either of them, to the Re-consideration and Re-determination of the said Arbitrator, upon such Terms, as to Costs and otherwise, as to the said Court or Judge may seem proper.

Application to set aside the Award.

XII. All Applications to set aside any Award made on a compulsory Reference under this Act shall and may be made within the First Seven Days of the Term next following the Publication of the Award to the Parties, whether made in Vacation or Term; and if no such Application is made, or if no Rule is granted thereon, or if any Rule granted thereon is afterwards discharged, such Award shall be final between the Parties.

Enforcing of Awards within Period for setting them aside.

XIII. Any Award made on a compulsory Reference under this Act may, by Authority of a Judge, on such Terms as to him may seem reasonable, be enforced at any Time after Seven Days from the Time of Publication, notwithstanding that the Time for moving to set it aside has not elapsed.

If Action commenced by One Party after all have agreed to Arbitration, Court or Judge may stay Proceedings.

XIV. Whenever the Parties to any Deed or Instrument in Writing to be hereafter made or executed, or any or them, shall agree that any then existing or future Differences between them or any of them shall be referred to Arbitration, and any One or more of the Parties so agreeing, or any Person or Persons claiming through or under him or them, shall nevertheless commence any Action at Law or Suit in Equity against the other Party or Parties, or any of them, or against any Person or Persons claiming through or under him or them in respect of the Matters so agreed to be referred, or any of them, it shall be lawful for the Court in which Action or Suit is brought, or a Judge thereof, on Application by the Defendant or Defendants, or any of them, before Appearance and Defence or Answer, upon being satisfied that no sufficient Reason exists why such Matters cannot be or ought not to be referred to Arbitration according to such Agreement as aforesaid, and that the Defendant was at the Time of the bringing of such Action or Suit and still is ready and willing to join and concur in all Acts necessary and proper for causing such Matters so to be decided by Arbitration, to make a Rule or Order staying all Proceedings in such Action or Suit, on such Terms, as to Costs and otherwise, as to such Court or Judge may seem fit: Provided always, that any such Rule or Order may at any Time afterwards be discharged or varied as Justice may require.

On Failure of Parties or Arbitrators, Judge may appoint single Arbitrator or Umpire.

XV. If in any Case of Arbitration the Document authorizing the Reference provide that the Reference shall be to a single Arbitrator, and all the Parties do not, after Differences have arisen, concur in the Appointment of an Arbitrator; or if any appointed Arbitrator refuse to act, or become incapable of acting, or die, and the Terms of such Document do not show that it was intended that such Vacancy should not be supplied, and the Parties do not concur in appointing a new one; or if, where the Parties or Two Arbitrators are at liberty to appoint an Umpire or Third Arbitrator, such Parties or Arbitrators do not appoint an Umpire or Third Arbitrator; or if any appointed Umpire or Third Arbitrator refuse to act, or become incapable of acting, or die, and the Terms of the Document authorizing the Reference do not show that it was intended that such a Vacancy should not be supplied, and the Parties or Arbitrators respectively do not appoint a new one; then in every such Instance any Party may serve the remaining Parties or the Arbitrators, as the Case may be, with a written Notice to appoint an Arbitrator, Umpire, or Third Arbitrator respectively; and if within Seven clear Days after such Notice shall have been served no Arbitrator, Umpire, or Third Arbitrator be appointed, it shall be lawful for the Court or any Judge of any of the Superior Courts of Law or Equity at Dublin, upon the Application of the Party having served such Notice as aforesaid, to appoint an Arbitrator, Umpire, or Third Arbitrator, as the Case may be, and such Arbitrator, Umpire, and Third Arbitrator respectively shall have the like Power to act in the Reference and make an Award as if he had been appointed by Consent of all Parties.

When Reference is to Two Arbitrators and One Party fail to appoint, other Party may appoint Arbitrator to act alone.

XVI. When the Reference is or is intended to be to Two Arbitrators, One appointed by each Party, it shall be lawful for either Party, in the Case of the Death, Refusal to act, or Incapacity of any Arbitrator appointed by him, to substitute a new Arbitrator, unless the Document authorizing the Reference show that it was intended that the Vacancy should not be supplied; and if on such a Reference One Party fail to appoint an Arbitrator, either originally or by way of Substitution as aforesaid, for Seven clear Days after the other Party shall have appointed an Arbitrator, and shall have served the Party so failing to appoint with Notice in Writing to make the Appointment, the Party who has appointed an Arbitrator may appoint such Arbitrator to act as sole Arbitrator in the Reference, and an Award made by him shall be binding on both Parties as if the Appointment had been by Consent; provided, however, that the Court or a Judge may revoke such Appointment, on such Terms as shall seem just.

Two Arbitrators may appoint Umpire.

XVII. When the Reference is to Two Arbitrators, and the Terms of the Document authorizing it do not show that it was intended that there should not be an Umpire, or provide otherwise for the Appointment of an Umpire, the Two Arbitrators may appoint an Umpire at any Time within the Period during which they have Power to make an Award, unless they be called upon by Notice as aforesaid to make the Appointment sooner.

Award to be made in Three Months unless Parties or Court enlarge Time.

XVIII. The Arbitrator acting under any such Document or compulsory Order of Reference as aforesaid, or under any Order referring the Award back, shall make his Award under his Hand, and (unless such Document or Order respectively shall contain a different Limit of Time) within Three Months after he shall have been appointed, and shall have entered on the Reference, or shall have been called upon to act by a Notice in Writing from any Party, but the Parties may by Consent in Writing enlarge the Term for making the Award; and it shall be lawful for the Court of which such Submission, Document, or Order is or may be made a Rule or Order, or for any Judge thereof, for good Cause to be stated in the Rule or Order for Enlargement, from Time to Time to enlarge the Term for making the Award; and if no Period be stated for the Enlargement in such Consent or Order for Enlargement, it shall be deemed to be an Enlargement for One Month; and in any Case where an Umpire shall have been appointed it shall be lawful for him to enter on the Reference in lieu of the Arbitrators, if the latter shall have allowed their Time or their extended Time to expire without making an Award, or shall have delivered to any Party or to the Umpire a Notice in Writing stating that they cannot agree.

Rule to deliver Possession of Land pursuant to Award to be enforced as a Judgment in Ejectment.

XIX. When any Award made on any such Submission, Document, or Order of Reference as aforesaid directs that Possession of any Lands or Tenements capable of being the Subject of an Action of Ejectment shall be delivered to any Party, either forthwith or at any future Time, or that any such Party is entitled to the Possession of any such Lands or Tenements, it shall be lawful for the Court of which the Document authorizing the Reference is or is made a Rule or Order to order any Party to the Reference who shall be in possession of any such Lands or Tenements, or any Person in possession of the same claiming under or put in possession by him since the making of the Document authorizing the Reference, to deliver Possession of the same to the Party entitled thereto, pursuant to the Award, and such Rule or Order to deliver Possession shall have the Effect of a Judgment in Ejectment against every such Party or Person named in it, and Execution may issue, and Possession shall be delivered by the Sheriff as on a Judgment in Ejectment.

Agreement or Submission in Writing may be made Rule of Court, unless a contrary Intention appear.

XX. Every Agreement or Submission to Arbitration by Consent, whether by Deed or Instrument in Writing, not under Seal, may be made a Rule of any One of the Superior Courts of Law or Equity at Dublin, on the Application of any Party thereto, unless such Agreement or Submission contain Words purporting that the Parties intend that it should not be made a Rule of Court; and if in any such Agreement or Submission it is provided that the same shall or may be made a Rule of One in particular of such Superior Courts, it may be made a Rule of that Court only; and if when there is no such Provision a Case be stated in the Award for the Opinion of One of the Superior Courts, and such Court be specified in the Award, and the Document authorizing the Reference have not, before the Publication of the Award to the Parties, been made a Rule of Court, such Document may be made a Rule only of the Court specified in the Award; and when in any Case the Document authorizing the Reference is or has been made a Rule or Order of any One of such Superior Courts, no other of such Courts shall have any Jurisdiction to entertain any Motion respecting the Arbitration or Award.

CLAUSE B.
Speeches to the Jury.

XXI. Upon the Trial of any Cause the Addresses to the Jury shall be regulated as follows: The Party who begins, or his Counsel, shall be allowed, in the event of his Opponent not announcing at the Close of the Case of the Party who begins his Intention to adduce Evidence, to address the Jury a Second Time at the Close of such Case, for the Purpose of summing up the Evidence; and the Party on the other Side, or his Counsel, shall be allowed to open the Case, and also to sum up the Evidence (if any); and the Right to reply shall be the same as at present.

CLAUSE C.
Power to adjourn Trial.

XXII. It shall be lawful for the Court or Judge, at the Trial of any Cause, where they or he may deem it right for the Purposes of Justice, to order an Adjournment for such Time, and subject to such Terms and Conditions as to Costs, and otherwise, as they or he may think fit.

CLAUSE D.
Affirmation instead of Oath in certain Cases.

XXIII. If any Person called as a Witness, or required or desiring to make an Affidavit or Deposition, shall refuse or be unwilling from alleged conscientious Motives to be sworn, it shall be lawful for the Court or Judge or other presiding Officer, or Person qualified to take Affidavits or Depositions, upon being satisfied of the Sincerity of such Objection, to permit such Person, instead of being sworn, to make his or her solemn Affirmation or Declaration in the Words following; videlicet,

'I A.B. do solemnly, sincerely, and truly affirm and declare, That 'the taking of any Oath is, according to my religious Belief, 'unlawful; and I do also solemnly, sincerely, and truly affirm and 'declare, &c.'

Which solemn Affirmation and Declaration shall be of the same Force and Effect as if such Person had taken an Oath in the usual Form.

CLAUSE E.
Persons making a false Affirmation to be subject to the same Punishment as for Perjury.

XXIV. If any Person making such solemn Affirmation or Declaration shall wilfully, falsely, and corruptly affirm or declare any Matter or Thing which, if the same had been sworn in the usual Form, would have amounted to wilful and corrupt Perjury, every such Person so offending shall incur the same Penalties as by the Laws and Statutes of this Kingdom are or may be enacted or provided against Persons convicted of wilful and corrupt Perjury.

CLAUSE F.
How far a Party may discredit his own Witness.

XXV. A Party producing a Witness shall not be allowed to impeach his Credit by general Evidence of bad Character, but he may, in case the Witness shall in the Opinion of the Judge prove adverse, contradict him by other Evidence, or, by Leave of the Judge, prove that he has made at other Times a Statement inconsistent with his present Testimony; but before such last-mentioned Proof can be given, the Circumstances of the supposed Statement, sufficient to designate the particular Occasion, must be mentioned to the Witness, and he must be asked whether or not he has made such Statement.

CLAUSE G.
Proof of contradictory Statements of adverse Witness.

XXVI. If a Witness, upon Cross-examination as to a former Statement made by him relative to the Subject Matter of the Cause, and inconsistent with his present Testimony, does not distinctly admit that he has made such Statement, Proof may be given that he did in fact make it; but before such Proof can be given, the Circumstances of the supposed Statement, sufficient to designate the particular Occasion, must be mentioned to the Witness, and he must be asked whether or not he has made such Statement.

CLAUSE H.
Cross-examination as to previous Statements in Writing.

XXVII. A Witness may be cross-examined as to previous Statements made by him in Writing, or reduced into Writing, relative to the Subject Matter of the Cause, without such Writing being shown to him; but if it is intended to contradict such Witness by the Writing, his Attention must, before such contradictory Proof can be given, be called to those Parts of the Writing which are to be used for the Purpose of so contradicting him: Provided always, that it shall be competent for the Judge, at any Time during the Trial, to require the Production of the Writing for his Inspection, and he may thereupon make such Use of it for the Purposes of the Trial as he shall think fit.

Clause I.
Proof of previous Conviction of a Witness may be given.

XXVIII. A Witness in any Cause may be questioned as to whether he has been convicted of any Felony or Misdemeanor, and, upon being so questioned, if he either denies the Fact, or refuses to answer, it shall be lawful for the opposite Party to prove such Conviction; and a Certificate containing the Substance and Effect only (omitting the formal Part) of the Indictment and Conviction for such Offence, purporting to be signed by the Clerk of the Court or other Officer having the Custody of the Records of the Court where the Offender was convicted, or by the Deputy of such Clerk or Officer, (for which Certificate a Fee of Five Shillings and no more shall be demanded or taken,) shall, upon Proof of the Identity of the Person, be sufficient Evidence of the said Conviction, without Proof of the Signature or official Character of the Person appearing to have signed the same.

Clause K.
Attesting Witness need not be called, except in certain Cases.

XXIX. It shall not be necessary to prove by the attesting Witness any Instrument to the Validity of which Attestation is not requisite; and such Instrument may be proved by Admission, or otherwise, as if there had been no attesting Witness thereto.

Clause L.
Comparison of disputed Writing.

XXX. Comparison of a disputed Writing with any Writing proved to the Satisfaction of the Judge to be genuine shall be permitted to be made by Witnesses; and such Writings, and the Evidence of Witnesses respecting the same, may be submitted to the Court and Jury as Evidence of the Genuineness, or otherwise, of the Writing in dispute.

Clause M.
Provision for stamping Documents at the Trial.

XXXI. Upon the Production of any Document as Evidence at the Trial of any Cause, it shall be the Duty of the Officer of the Court whose Duty it is to read such Document to call the Attention of the Judge to any Omission or Insufficiency of the Stamp; and the Document, if unstamped, or not sufficiently stamped, shall not be received in Evidence until the whole or (as the Case may be) the Deficiency of the Stamp Duty, and the Penalty required by Statute, together with the additional Penalty of One Pound, shall have been paid.

Clause N.
Officer of the Court to receive the Duty and Penalty.

XXXII. Such Officer of the Court shall, upon Payment to him of the whole or (as the Case may be) of the Deficiency of the Stamp Duty payable upon or in respect of such Document, and of the Penalty required by Statute, and of the additional Penalty of One Pound, give a Receipt for the Amount of the Duty or Deficiency which the Judge shall determine to be payable, and also of the Penalty, and thereupon such Document shall be admissible in Evidence, saving all just Exceptions on other Grounds; and an Entry of the Fact of such Payment and of the Amount thereof shall be made in a Book kept by such Officer; and such Officer shall, at the End of each Sittings or Assizes (as the Case may be), duly make a Return to the Commissioners of the Inland Revenue of the Monies, if any, which he has so received by way of Duty or Penalty, distinguishing between such Monies, and stating the Name of the Cause and of the Parties from whom he received such Monies, and the Date, if any, and Description of the Document, for the Purpose of identifying the same; and he shall pay over the said Monies to the Receiver General of the Inland Revenue, or to such Person as the said Commissioners shall appoint or authorize to receive the same; and in case such Officer shall neglect or refuse to furnish such Account, or to pay over any of the Monies so received by him as aforesaid, he shall be liable to be proceeded against in the Manner directed by the Eighth Section of an Act passed in the Session of Parliament holden in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, intituled "An Act to repeal certain Stamp Duties, and to grant others in lieu "thereof, and to amend the Laws relating to the Stamp Duties;" and the said Commissioners shall, upon Request, and Production of the Receipt herein-before mentioned, cause such Documents to be stamped with the proper Stamp or Stamps in respect of the Sums so paid as aforesaid: Provided always, that the aforesaid Enactment shall not extend to any Document which cannot now be stamped after the Execution thereof on Payment of the Duty and a Penalty.

13 & 14 Vict. c. 97.

Clause O. No Document under this Act to require a Stamp.

XXXIII. No Document made or required under the Provisions of this Act shall be liable to any Stamp Duty.

Clause P. No new Trial for ruling as to Stamp.

XXXIV. No new Trial shall be granted by reason of the ruling of any Judge that the Stamp upon any Document is sufficient, or that the Document does not require a Stamp.

Clause Q. Error may be brought on a Special Case.

XXXV. Error may be brought upon a Judgment upon a Special Case in the same Manner as upon a Judgment upon a Special Verdict, unless the Parties agree to the contrary; and the Proceedings for bringing a Special Case before the Court of Error shall, as nearly as may be, be the same as in the Case of a Special Verdict; and the Court of Error shall either affirm the Judgment or give the same Judgment as ought to have been given in the Court in which it was originally decided, the said Court of Error being required to draw any Inferences of Fact from the Facts stated in such Special Case which the Court where it was originally decided ought to have drawn.

XXXVI. In every Rule Nisi for a new Trial or to enter a Verdict or Nonsuit, the Grounds upon which such Rule shall have been granted shall be shortly stated therein.

Grounds to be stated in Rule Nisi for new Trial.

XXXVII. In all Cases of Rules to enter a Verdict or Nonsuit upon a Point reserved at the Trial, if the Rule to show Cause be refused or granted and then discharged or made absolute, the Party decided against may appeal.

If Rule Nisi refused, Party may appeal.

XXXVIII. In all Cases of Motions for a new Trial upon the Ground that the Judge has not ruled according to Law, if the Rule to show Cause be refused, or if granted be then discharged or made absolute, the Party decided against may appeal, provided any One of the Judges dissent from the Rule being refused, or, when granted, being discharged or made absolute, as the Case may be, or, provided the Court in its Discretion think fit that an Appeal should be allowed; provided, that where the Application for a new Trial is upon Matter of Discretion only, as on the Ground that the Verdict was against the Weight of Evidence or otherwise, no such Appeal shall be allowed.

Appeal upon Rule discharged or absolute.

XXXIX. The Court of Exchequer Chamber and the House of Lords shall be Courts of Appeal for the Purposes of this Act.

Courts of Error to be Courts of Appeal.

XL. No Appeal shall be allowed unless Notice thereof be given in Writing to the opposite Party or his Attorney, and to the Master of the Court, within Four Days after the Decision complained of, or such further Time as may be allowed by the Court or a Judge.

Notice of Appeal.

XLI. Notice of Appeal shall be a Stay of Execution, provided Bail to pay the Sum recovered and Costs, or to pay Costs where the Appellant was Plaintiff below, be given, in like Manner and to the same Amount as Bail in Error, within Eight Days after the Decision complained of, or before Execution delivered to the Sheriff.

Bail.

XLII. The Appeal herein-before mentioned shall be upon a Case to be stated by the Parties, (and in case of Difference, to be settled by the Court or a Judge of the Court appealed from,) in which Case shall be set forth so much of the Pleadings, Evidence, and the Ruling or Judgment objected to, as may be necessary to raise the Question for the Decision of the Court of Appeal.

Form of Appeal.

XLIII. When the Appeal is from the Refusal of the Court below to grant a Rule to show Cause, and the Court of Appeal grant such Rule, such Rule shall be argued and disposed of in the Court of Appeal.

Rule Nisi granted on Appeal, how disposed of.

XLIV. The Court of Appeal shall give such Judgment as ought to have been given in the Court below; and all such further

Proceedings may be taken thereupon as if the Judgment had been given by the Court in which the Record originated.

Powers of Court of Appeal as to Costs and otherwise.

XLV. The Court of Appeal shall have Power to adjudge Payment of Costs, and to order Restitution; and they shall have the same Powers as the Court in which the Record originated in respect of awarding Process and otherwise.

Error upon Award of Trial de novo.

XLVI. Upon an Award of a Trial de novo by any One of the Superior Courts, upon Matter appearing upon the Record, Error may at once be brought; and if the Judgment in such or any other Case be affirmed in Error, it shall be lawful for the Court of Error to adjudge Costs to the Defendant in Error.

Payment of Costs upon new Trial on Matter of Fact.

XLVII. When a new Trial is granted, on the Ground that the Verdict was against Evidence, the Costs of the First Trial shall abide the Event, unless the Court shall otherwise order.

Affidavits no new Matter.

XLVIII. Upon Motions founded upon Affidavits it shall be lawful for either Party, with Leave of the Court or a Judge, to make Affidavits in answer to the Affidavits of the opposite Party, upon any new Matter arising out of such Affidavits, subject to all such Rules as shall hereafter be made respecting such Affidavits.

Power to Court or Judge to direct oral Examination of Witnesses.

XLIX. Upon the Hearing of any Motion it shall be lawful for the Court or Judge, at their or his Discretion, and upon such Terms as they or he shall think reasonable, from Time to Time to order such Documents as they or he may think fit to be produced, and such Witnesses as they or he may think necessary to appear, and be examined vivâ voce, either before such Court or Judge, or before the Master, and upon hearing such Evidence, or reading the Report of such Master, to make such Rule or Order as may be just.

Proceedings before and upon such Examination.

3 & 4 Vict. c. 105.

L. The Court or Judge may by such Rule or Order, or any subsequent Rule or Order, command the Attendance of the Witnesses named therein, for the Purpose of being examined, or the Production of any Writings or other Documents to be mentioned in such Rule or Order; and such Rule or Order shall be proceeded upon in the same Manner, and shall have the same Force and Effect, as a Rule of the Court under the Act of the Third and Fourth Victoria, Chapter One hundred and five; and it shall be lawful for the Court, or Judge, or Master to adjourn the Examination from Time to Time as Occasion may require; and the Proceedings upon such Examination shall be conducted, and the Depositions taken down, as nearly as may be, in the Mode now in use with respect to the vivâ voce Examination of Witnesses under the last-mentioned Act.

Examination of Person who refuses to make an Affidavit.

LI. Any Party to any Civil Action or other Civil Proceeding in any of the Superior Courts, requiring the Affidavit of a Person who refuses to make an Affidavit, may apply by Notice for an Order to such Person to appear and be examined upon Oath before a Judge or Master, to whom it may be most convenient to refer such Examination, as to the Matters concerning which he has refused to make an Affidavit; and the Court or Judge may, if he think fit, make such Order for the Attendance of such Person before the Person therein appointed to take such Examination, for the Purpose of being examined as aforesaid, and for the Production of any Writings or Documents to be mentioned in such Order, and may therein impose such Terms as to such Examination, and the Costs of the Application and Proceedings thereon, as he shall think just.

Proceedings upon Order for Examination.

3 & 4 Vict. c. 105.

LII. Such Order shall be proceeded upon in like Manner as an Order made under the herein-before mentioned Act of the Third and Fourth Victoria, Chapter One hundred and five, and the Examination thereon shall be conducted, and the Depositions taken down and returned, as nearly as may be, in the Mode now used on vivâ voce Examinations under the said Act of Parliament.

Discovery of Documents.

LIII. Upon the Application of either Party to any Cause or other Civil Proceeding in any of the Superior Courts, upon an Affidavit by such Party of his Belief that any Document, to the Production of which he is entitled for the Purpose of Discovery or otherwise, is in the Possession or Power of the opposite Party, it shall be lawful for the Court or Judge to order that the Party against whom such Application is made, or if such Party is a Body Corporate that some Officer to be named of such Body Corporate, shall answer on Affidavit, stating what Documents he or they has or have in his or their Possession or Power relating to the Matters in dispute, or what he knows as to the Custody they or any of them are in, and whether he or they objects or object (and if so, on what Grounds,) to the Production of such as are in his or their Possession or Power; and upon such Affidavit being made the Court or Judge may make such further Order thereon as shall be just.

Power to deliver written Interrogatories to opposite Party.

LIV. In all Causes in any of the Superior Courts, by Order of the Court or a Judge, the Plaintiff may, with the Writ of Summons and Plaint, and the Defendant may, with the Appearance and Defence, or either of them, by Leave of the Court or a Judge, may, at any other Time, deliver to the opposite Party or his Attorney (provided such Party, if not a Body Corporate, would be liable to be called and examined as a Witness upon such Matter) Interrogatories in Writing upon any Matter as to which Discovery may be sought, and require such Party, or in the Case of a Body Corporate any of the

Officers of such Body Corporate, within Ten Days, to answer the Questions in Writing by Affidavit, to be sworn and filed in the ordinary Way; and any Party or Officer omitting, without just Cause, sufficiently to answer all Questions as to which a Discovery may be sought within the above Time, or such extended Time as the Court or a Judge shall allow, shall be deemed to have committed a Contempt of the Court, and shall be liable to be proceeded against accordingly.

Affidavits by Party proposing to interrogate, and his Attorney.

LV. The Application for such Order shall be made upon an Affidavit of the Party proposing to interrogate, and his Attorney or Agent, or, in the Case of a Body Corporate, of their Attorney or Agent, stating that the Deponents or Deponent believe or believes that the Party proposing to interrogate, whether Plaintiff or Defendant, will derive material Benefit in the Cause from the Discovery which he seeks, that there is a good Cause of Action or Defence upon the Merits, and, if the Application be made on the Part of the Defendant, that the Discovery is not sought for the Purpose of Delay; provided that where it shall happen, from unavoidable Circumstances, that the Plaintiff or Defendant cannot join in such Affidavit, the Court or Judge may, if they or he think fit, upon Affidavit of such Circumstances by which the Party is prevented from so joining therein, allow and order that the Interrogatories may be delivered without such Affidavit.

Oral Examination of Parties, when to be allowed.

LVI. In case of Omission, without just Cause, to answer sufficiently such written Interrogatories, it shall be lawful for the Court or a Judge, at their or his Discretion, to direct an oral Examination of the interrogated Party, as to such Points as they or he may direct, before a Judge or the Master; and the Court or Judge may by such Rule or Order, or any subsequent Rule or Order, command the Attendance of such Party or Parties before the Person appointed to take such Examination, for the Purpose of being orally examined as aforesaid, or the Production of any Writings or other Documents to be mentioned in such Rule or Order, and may impose therein such Terms as to such Examination, and the Costs of the Application, and of the Proceedings thereon, and otherwise, as to such Court or Judge shall seem just.

Proceedings upon such Rule or Order.

LVII. Such Rule or Order shall have the same Force and Effect, and may be proceeded upon in like Manner, as an Order made under the said herein-before mentioned Act of the Third and Fourth Victoria, Chapter One hundred and five.

Depositions upon such Examinations to be

LVIII. Whenever, by virtue of this Act, an Examination of any Witness or Witnesses has been taken before a Judge of One of the said returned to Master's Office.

said Superior Courts, or before the Master, the Depositions taken down by such Examiner shall be returned to and kept in the Master's Office of the Court in which the Proceedings are pending; and Office Copies of such Depositions may be given out, and the Depositions may be otherwise used, in the same Manner as in the Case of Depositions taken under the herein-before mentioned Act of the Third and Fourth Victoria, Chapter One hundred and five.

Examiner may make Report to the Court.

LIX. It shall be lawful for every Judge or Master named in any such Rule or Order as aforesaid for taking Examinations under this Act, and he is hereby required to make, if need be, a special Report to the Court in which such Proceedings are pending, touching such Examination, and the Conduct or Absence of any Witness or other Person thereon or relating thereto; and the Court is hereby authorized to institute such Proceedings and make such Order and Orders upon such Report as Justice may require, and as may be instituted and made in any Case of Contempt of the Court.

Costs of Rule and Examination to be in the Discretion of the Court.

LX. The Costs of every Application for any Rule or Order to be made for the Examination of Witnesses by virtue of this Act, and of the Rule or Order and Proceedings thereon, shall be in the Discretion of the Court or Judge by whom such Rule or Order is made.

Examination of Judgment Debtor as to Debts due to him.

LXI. It shall be lawful for any Creditor who has obtained a Judgment in any of the Superior Courts to apply to the Court or a Judge for a Rule or Order that the Judgment Debtor should be orally examined as to any and what Debts are owing to him before the Master of the Court, or such other Person as the Court or Judge shall appoint; and the Court or Judge may make such Rule or Order for the Examination of such Judgment Debtor, and for the Production of any Books or Documents, and the Examination shall be conducted in the same Manner, as in the Case of an oral Examination of an opposite Party before the Master under this Act.

Judge may order an Attachment of Debts.

LXII. It shall be lawful for a Judge, upon the ex-parte Application of such Judgment Creditor, either before or after such oral Examination, and upon Affidavit by himself or his Attorney stating that Judgment has been recovered, and that it is still unsatisfied, and to what Amount, and that any other Person is indebted to the Judgment Debtor, and is within the Jurisdiction, to order that all Debts owing or accruing from such Third Person (herein-after called the Garnishee) to the Judgment Debtor shall be attached to answer the Judgment Debt; and by the same or any subsequent Order it may be ordered that the Garnishee shall appear before the Judge or Master, as such Judge shall appoint, to show Cause why he should not pay the Judgment Creditor the Debt due from him to the Judgment Debtor, or so much thereof as may be sufficient to satisfy the Judgment Debt.

Order for Attachment to bind Debts.

LXIII. Service of an Order that Debts due or accruing to the Judgment Debtor shall be attached, or Notice thereof to the Garnishee, in such Manner as the Judge shall direct, shall bind such Debts in his Hands.

Proceedings to levy Amount due from Garnishee to Judgment Debtor.

LXIV. If the Garnishee does not forthwith pay into Court the Amount due from him to the Judgment Debtor, or an Amount equal to the Judgment Debt, and does not dispute the Debt due or claimed to be due from him to the Judgment Debtor, or if he does not appear upon Summons, then the Judge may order Execution to issue, and it may be sued forth accordingly, without any previous Writ or Process, to levy the Amount due from such Garnishee towards Satisfaction of the Judgment Debt.

Judge may allow Judgment Creditor to sue Garnishee.

LXV. If the Garnishee disputes his Liability, the Judge, instead of making an Order that Execution shall issue, may order that the Judgment Creditor shall be at liberty to proceed against the Garnishee by Writ, calling upon him to show cause why there should not be Execution against him for the alleged Debt, or for the Amount due to the Judgment Debtor, if less than the Judgment Debt, and for Costs of Suit; and the Proceedings upon such Suit shall be the same, as nearly as may be, as upon a Writ of Revivor issued under "The Common Law Procedure Act Amendment Act, Ireland, 1853."

Garnishee discharged.

LXVI. Payment made by or Execution levied upon the Garnishee under any such Proceeding as aforesaid shall be a valid Discharge to him as against the Judgment Debtor to the Amount paid or levied, although such Proceeding may be set aside or the Judgment reversed.

Attachment Book to be kept by the Masters of each Court.

LXVII. In each of the Superior Courts there shall be kept at the Master's Office a Debt Attachment Book, and in such Book Entries shall be made of the Attachment and Proceedings thereon, with Names, Dates, and Statements of the Amount recovered, and otherwise; and the Mode of keeping such Books shall be the same in all the Courts; and Copies of any Entries made therein may be taken by any Person, upon Application to the Master.

Costs of Application.

LXVIII. The Costs of any Application for an Attachment of Debt under this Act, and of any Proceedings arising from or incidental to such Application, shall be in the Discretion of the Court or a Judge.

Action for Mandamus to enforce the Performance of Duties.

LXIX. The Plaintiff in any Action in any of the Superior Courts, except Replevin and Ejectment, may claim in the Writ of Summons and Plaint, either together with any other Demand which may now be enforced in such Action, or separately, a Writ of Mandamus commanding the Defendant to fulfil any Duty in the Fulfilment of which the Plaintiff is personally interested.

Declaration in Action for Mandamus.

LXX. The Writ of Summons and Plaint in such Action shall set forth sufficient Grounds upon which such Claim is founded, and shall set forth that the Plaintiff is personally interested therein, and that he sustains or may sustain Damage by the Nonperformance of such Duty, and that Performance thereof has been demanded by him, and refused or neglected.

Proceedings upon Claim for Mandamus.

LXXI. The Pleadings and other Proceedings in any Action in which a Writ of Mandamus is claimed shall be the same in all respects, as nearly as may be, and Costs shall be recoverable by either Party, as in an ordinary personal Action.

Judgment and Execution.

LXXII. In case Judgment shall be given to the Plaintiff that a Mandamus do issue, it shall be lawful for the Court in which such Judgment is given, if it shall see fit, besides issuing Execution in the ordinary Way for the Costs and Damages, also to issue a peremptory Writ of Mandamus to the Defendant, commanding him forthwith to perform the Duty to be enforced.

Form of peremptory Writ.

LXXIII. The Writ need not recite the Writ of Summons and Plaint, or other Proceedings, or the Matter therein stated, but shall simply command the Performance of the Duty, and in other respects shall be in the Form of an ordinary Writ of Execution, except that it shall be directed to the Party and not to the Sheriff, and may be issued in Term or Vacation, and returnable forthwith; and no Return thereto, except that of Compliance, shall be allowed, but Time to return it may, upon sufficient Grounds, be allowed by the Court or a Judge, either with or without Terms.

Effect of Writ of Mandamus and Proceedings to enforce it.

LXXIV. The Writ of Mandamus so issued as aforesaid shall have the same Force and Effect as a peremptory Writ of Mandamus issued out of the Court of Queen's Bench, and in case of Disobedience may be enforced by Attachment.

The Court may order the Act to be done at the Expense of the Defendant.

LXXV. The Court or a Judge may, upon Application by the Plaintiff, besides or instead of proceeding against the disobedient Party by Attachment, direct that the Act required to be done may be done by the Plaintiff, or some other Person appointed by the Court, at the Expense of the Defendant; and upon the Act being done, the Amount of such Expense may be ascertained by the Court, either by Writ of Inquiry or Reference to the Master, as the Court or a Judge may order; and the Court may order Payment of the Amount of such Expenses and Costs, and enforce Payment thereof by Execution.

Prerogative Writ of Mandamus preserved.

LXXVI. Nothing herein contained shall take away the Jurisdiction of the Court of Queen's Bench to grant Writs of Mandamus; nor shall any Writ of Mandamus issued out of that Court be invalid by reason of the Right of the Prosecutor to proceed by Action for Mandamus under this Act.

Proceedings for Prerogative Writ of Mandamus accelerated.

LXXVII. Upon Application by Motion for any Writ of Mandamus in the Court of Queen's Bench, the Rule may in all Cases be absolute in the first instance, if the Court shall think fit; and the Writ may bear Teste on the Day of its issuing, and may be made returnable forthwith, whether in Term or in Vacation, but Time may be allowed to return it, by the Court or a Judge, either with or without Terms.

Proceedings on Prerogative Writ of Mandamus.

LXXVIII. The Provisions of "The Common Law Procedure Amendment Act (Ireland), 1853," and of this Act, so far as they are applicable, shall apply to the Pleadings and Proceedings upon a Prerogative Writ of Mandamus issued by the Court of Queen's Bench.

Specific Delivery of Chattels.

LXXIX. The Court or a Judge shall have Power, if they or he see fit so to do, upon the Application of the Plaintiff in any Action for the Detention of any Chattel, to order that Execution shall issue for the Return of the Chattel detained, without giving the Defendant the Option of retaining such Chattel upon paying the Value assessed, and that if the said Chattel cannot be found, and unless the Court or a Judge should otherwise order, the Sheriff shall distrain the Defendant by all his Lands and Chattels in the said Sheriff's Bailiwick, till the Defendant render such Chattel, or, at the Option of the Plaintiff, that he cause to be made of the Defendant's Goods the Assessed Value of such Chattel; provided that the Plaintiff shall, either by the same or a separate Writ of Execution, be entitled to have made of the Defendant's Goods the Damages, Costs, and Interest in such Action.

Claim of Writ of Injunction.

LXXX. In all Cases of Breach of Contract or other Injury, where the Party injured is entitled to maintain and has brought an Action, he may, in like Case and Manner as herein-before provided with respect to Mandamus, claim a Writ of Injunction against the Repetition or Continuance of such Breach of Contract or other Injury, or the Committal of any Breach of Contract or Injury of a like kind, arising out of of the same Contract, or relating the same Property or Right; and he may also in the same Action include a Claim for Damages or other Redress.

Form of Writ of Summons and Endorsement thereon.

LXXXI. The Writ of Summons and Plaint in such Action shall be in the same Form as the Writ of Summons and Plaint in any personal Action, but on every such Writ and Copy thereof there shall be endorsed a Notice that in default of Appearance the Plaintiff may, besides proceeding to Judgment and Execution for Damages and Costs, apply for and obtain a Writ of Injunction.

Form of Proceedings and of Judgment.

LXXXII. The Proceedings in such Action shall be the same, as nearly as may be, and subject to the like Control, as the Proceedings in an Action to obtain a Mandamus under the Provisions herein-before contained; and in such Action Judgment may be given that the Writ of Injunction do or do not issue, as Justice may require; and in case of Disobedience such Writ of Injunction may be enforced by Attachment by the Court or by a Judge.

Writ of Injunction may be applied for at any Stage of the Cause.

LXXXIII. It shall be lawful for the Plaintiff at any Time after the Commencement of the Action, and whether before or after Judgment, to apply ex parte to the Court or a Judge for a Writ of Injunction to restrain the Defendant in such Action from the Repetition or Continuance of the wrongful Act or Breach of Contract complained of, or the Committal of any Breach of Contract or Injury of a like kind, arising out of the same Contract, or relating to the same Property or Right; and such Writ may be granted or denied by the Court or Judge upon such Terms as to the Duration of the Writ, keeping an Account, giving Security, or otherwise, as to such Court or Judge shall seem reasonable and just, and in case of Disobedience such Writ may be enforced by Attachment by the Court or by a Judge: Provided always, that any Order for a Writ of Injunction made by a Judge, or any Writ issued by virtue thereof, may be discharged or varied or set aside by the Court, on Application made thereto by any Party dissatisfied with such Order.

Equitable Defence may be pleaded.

LXXXIV. It shall be lawful for the Defendant or Plaintiff in any Action for Replevin of Goods in any of the Superior Courts in which, if Judgment were obtained, he would be entitled to Relief against such Judgment on equitable Grounds, to plead the Facts which entitle him to such Relief, and the said Courts are hereby empowered to receive such Pleading; provided that such Pleading shall begin with the Words "For Defence on equitable Grounds," or Words to the like Effect.

Equitable Defence after Judgment.

LXXXV. Any such Matter which, if it arose before or during the Time for pleading, would be an Answer to the Action if pleaded, may, if it arise after the Lapse of the Period during which it could be pleaded, be set up by way of Auditâ querelâ.

Equitable Replication.

LXXXVI. It shall be lawful for the Court to permit the Plaintiff to reply, in answer to any Pleading of the Defendant, Facts which avoid such Pleading upon equitable Grounds; provided that such Replication shall begin with the Words "For Replication on equitable Grounds," or Words to the like Effect.

Court or Judge may strike out equitable Plea or Replication.

LXXXVII. Provided always, That in case it shall appear to the Court, or any Judge thereof, that any such equitable Pleading or equitable Replication cannot be dealt with by a Court of Law so as to do Justice between the Parties, it shall be lawful for such Court or Judge to order the same to be struck out on such Terms, as to Costs and otherwise, as to such Court or Judge may seem reasonable.

Actions on lost Instruments.

LXXXVIII. In case of any Action founded upon a Bill of Exchange or other negotiable Instrument, it shall be lawful for the Court or a Judge to order that the Loss of such Instrument shall not be set up, provided an Indemnity is given, to the Satisfaction of the Court or Judge, or a Master, against the Claims of any other Person upon such negotiable Instrument.

Jurisdiction under Shipowners Act.

53 G. 3. c. 159.

LXXXIX. The Superior Courts or any Judge thereof may, upon summary Application, by Rule or Order, exercise such and the like Jurisdiction as may, under the Provisions of an Act of Parliament made and passed in the Fifty-third Year of the Reign of His Majesty King George the Third, intituled "An Act to limit the Responsibility "of Shipowners in certain Cases," be exercised by any Court of Equity.

False Evidence.

XC. Any Person who shall, upon any Examination upon Oath or Affirmation, or in any Affidavit in Proceedings under this Act, wilfully and corruptly give false Evidence, or wilfully and corruptly swear or affirm anything which shall be false, being convicted thereof, shall be liable to the Penalties of wilful and corrupt Perjury.

Execution to fix Bail.

XCI. Writs of Execution to fix Bail may be tested and returnable in Vacation.

Scire facias on Judgment of Assets in futuro.

XCII. Proceedings against Executors upon a Judgment of Assets in futuro may be had and taken in the Manner provided by "The Common Law Procedure Amendment Act (Ireland), 1853," as to Writs of Revivor.

XCIII. Where an Action would, but for the Provisions of "The Common Law Procedure Amendment Act (Ireland), 1853," have abated by reason of the Death of either Party, and in which the Proceedings may be revived and continued under that Act, the Defendant or Person against whom the Action may be so continued may apply by Notice to compel the Plaintiff, or Person entitled to proceed with the Action in the Room of the Plaintiff, to proceed according to the Provisions of the said Act within such Time as the Court or Judge shall order; and in default of such Proceeding the Defendant or other Person against whom the Action may be so continued as aforesaid shall be entitled to enter a Suggestion of such Default, and of the representative Character of the Person by or against whom the Action may be proceeded with, as the Case may be, and to have Judgment for the Costs of the Action and Suggestion against the Plaintiff, or against the Person entitled to proceed in his Room, as the Case may be, and in the latter Case to be levied of the Goods of the Testator or Intestate.

To compel Continuance or Abandonment of Action in case of Death.

XCIV. If any Person shall bring an Action of Ejectment after a prior Action of Ejectment for the same Premises has been or shall have been unsuccessfully brought by such Person, or by any Person through or under whom he claims against the same Defendant, or against any Person through or under whom he defends, the Court or a Judge may, if they or he think fit, on the Application of the Defendant at any Time after such Defendant has appeared to the Writ, order that the Plaintiff shall give to the Defendant Security for the Payment of the Defendant's Costs, and that all further Proceedings in the Cause shall be stayed until such Security be given, whether the prior Action has been or shall have been disposed of by Discontinuance, or by Nonsuit, or by Judgment for the Defendant.

Claimant in Second Ejectment for same Premises against same Defendant may be ordered to give Security for Costs.

XCV. Section CCXXXIX of "The Common Law Procedure Amendment Act (Ireland), 1853," is hereby repealed, and the Superior Courts may appoint and hold Sittings either in Banc, or for the Trial of Issues in Fact by Judge or Jury, at any Time or Times, whether in Term or Vacation, not being between the Tenth of August and the Twentieth of October.

Courts may appoint Sittings.

XCVI. If in any Action of Contract brought after the Commencement of this Act in the Superior Courts, (save for Breach of Promise of Marriage,) when the Parties reside within the Jurisdiction of the Civil Bill Court of the County in which the Cause of Action has arisen, the Plaintiff shall recover, exclusive of Costs, a Sum less than Twenty Pounds, or in any Action for any Wrong or Injury disconnected with Contract, (not being for Replevin, Slander, Libel, Malicious Pro-

Limitation of Costs in certain Cases.

secution, Seduction, or Criminal Conversation,) a Sum not exceeding Five Pounds, the Plaintiff in any such Action shall not be entitled to any Costs, unless at the Trial of such Cause the Judge shall certify on the Back of the Record, either that the Case was one which could not have been tried in the Civil Bill Court, or that although within the Jurisdiction of the Civil Bill Court, it nevertheless was a fit Case to be tried in One of such Superior Courts, or (in case there shall be no Trial) unless the Court or a Judge shall on Motion make an Order to the like Effect; and in case there shall be no such Certificate or Order, it shall not be necessary to enter any Suggestion on the Record to deprive such Plaintiff of Costs.

Clause R. Sects. to apply to every Civil Court in Ireland.

XCVII. The Enactments contained in Sections of this Act shall apply and extend to every Court of Civil Judicature in Ireland.

Clause S. Master may proceed under Sects. 98. and 101. of 16 & 17 Vict. c. 113. without Order of Court.

XCVIII. In all Cases within Sections Ninety-eight and One hundred and one of the Common Law Procedure Amendment Act (Ireland) 1853, it shall not be necessary to obtain any Direction of the Court or a Judge that the Amount for which final Judgment shall be marked shall be ascertained by the Master, but it shall be lawful for the Master without any such Direction to ascertain such Amount, and the Proceedings for that Purpose shall be in all respects as if a Direction to the Master by the Court or a Judge had in pursuance of the said Sections been made; and it shall be lawful for the Court or a Judge, in any Case in which the Venue shall be laid elswhere than in the County or County of the City of Dublin, instead of a Writ of Inquiry to the Sheriff to ascertain the Amount of Damages, to direct that the Amount for which final Judgment shall be marked shall be ascertained by the Master, and thereupon such Proceedings shall be had as if the Case had been within Section One hundred and one of the Common Law Procedure Amendment Act (Ireland) 1853, and a Direction to the Master under the said Section had been obtained; provided that the Jury shall be a Jury of the County of the City of Dublin, and shall be summoned accordingly.

Court may direct Master to hold Inquiries when Venue not in Dublin.

Clause T. Judgment in Replevin for Amount of Arrears.

XCIX. In all Actions for a Replevin of a Distress made for Rent, when the Amount of Rent in arrear at the Time of making such Distress shall have been ascertained as provided by Section Two hundred and thirty of the Common Law Procedure Amendment Act (Ireland), 1853, the Defendant shall have Judgment and Execution to recover against the Plaintiff the Arrears of Rent, whether the Value of the Goods and Chattels distrained shall amount to so much or not, anything in the said Act to the contrary notwithstanding.

C. In all Cases where Money shall have been lodged in Court in lieu of Security for Costs, and the Party lodging shall become entitled to be repaid the said Money or any Part thereof, such Party may, without any Rule or Order for that Purpose, apply to the Master of the Court to draw on the Bank of Ireland in favour of such Party or his Attorney upon Record for such Money or such Part thereof, and the said Master, on being satisfied by Affidavit or otherwise, that the Party applying is so entitled to be repaid, shall thereupon draw accordingly.

CLAUSE U. Master may draw for Money lodged as Security for Costs.

CI. The Provisions of this Act shall come into operation on the Day of in the Year of our Lord One thousand eight hundred and fifty-six.

Commencement of Act.

CII. Nothing in this Act shall extend to England or Scotland.

Act not to extend to England or Scotland.

Courts of Common Law.
(Ireland).

A

B I L L

[AS AMENDED IN COMMITTEE]

To further amend the Procedure in and to enlarge the Jurisdiction of the Superior Courts of Common Law in Ireland.

(*Prepared and brought in by*
Mr. Attorney General for Ireland, and
Mr. Solicitor General for Ireland.)

Ordered, by The House of Commons, *to be Printed,*
1 *April* 1856.

[Bill 76.]

Under 3 oz.

9 *May* 1856. 19 VICT.

(Ireland.)

A

B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT]

TO

Further amend the Procedure in and to enlarge the Jurisdiction of the Superior Courts of Common Law in Ireland.

[Note.—*The Clauses* A. *to* U. *were added in Committee; and the Clauses* V., W., X., *on Re-commitment.*]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title of Act.

I. This Act may be cited for all Purposes as the "Common Law Procedure Amendment Act (Ireland), 1856."

Incorporation of Acts.

II. This Act and "The Common Law Procedure Amendment Act (Ireland), 1853," shall be incorporated and construed together as One Act.

CLAUSE A.
Repeal of 18 & 19 Vict. c. 7. and so much of Sect. 103. of "The Common Law Procedure Act, 1854," as relates to Ireland.

III. The Act of the Eighteenth and Nineteenth Victoria, Chapter Seven, and so much of Section One hundred and three of "The Common Law Procedure Act, 1854," as provides that the Enactments in the said Section enumerated shall apply and extend to every Court of Civil Judicature in Ireland, are hereby repealed; provided that such Repeal shall not affect anything duly done or any Liability accruing before the Commencement of this Act, or any Penalty, Forfeiture, or other Punishment incurred or to be incurred in respect of any Offence committed before the Commencement of this Act, or anything required to be done or which may hereafter become necessary to be done to support or continue any Proceeding taken before the Commencement of this Act.

Judge may, by Consent, try Questions of Fact.

IV. The Parties to any Cause may, by Consent in Writing, signed by them or their Attorneys, as the Case may be, leave the Decision of any Issue of Fact to the Court, provided that the Court, or a Judge, shall, in their or his Discretion, think fit to allow such Trial; or provided the Judges of the Superior Courts of Law at Dublin shall, in pursuance of the Power in "The Common Law Procedure Amendment Act (Ireland), 1853," contained, make any General Rule or Order dispensing with such Allowance, either in all Cases or any particular Class or Classes of Cases to be defined in such Rule or Order; and such Issue of Fact may thereupon be tried and determined, and Damages assessed where necessary, in open Court, either in Term or Vacation, by any Judge who might otherwise have presided at the Trial thereof by Jury, either with or without the Assistance of any other Judge or Judges of the same Court, or included in the same Commission at the Assizes; and the Verdict of such Judge or Judges shall be of the same Effect as the Verdict of a Jury, save that it shall not be questioned upon the Ground of being against the Weight of Evidence; and the Proceedings upon and after such Trial, as to the Power of the Court or Judge, the Evidence, and otherwise, shall be the same as in the Case of Trial by Jury.

Two Judges may sit at the same Time for Trial of Causes pending in the same Court.

V. It shall be lawful for any One of the Judges of any of the Superior Courts at Dublin, at the Request of the Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, to try the Causes entered for Trial at Nisi Prius in Dublin in any of the Courts, on the same Days on which the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, or any other Judge of the same Court, shall be sitting to try Causes in Dublin, so that the Trial of Two Causes may be proceeded with at the same Time; and all Jurors, Witnesses, and other Persons who may have been summoned or required to attend at or for the Trial of any Cause before the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, as the Case may be, shall give their Attendance at and for the Trial thereof before such other Judge as may be sitting to try the same by virtue of this Act; and it shall be lawful for the Registrars and other Officers of the Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, as the Case may be, to appoint from Time to Time fit and proper Persons, to be approved by the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, to attend for them and on their Behalf respectively before such Judge; and the Trial of every Cause which shall be so had by virtue of this Act shall, if necessary, be entered of Record, as having been had before the Judge by whom such Cause in fact was tried.

Power to Court or Judge to direct Arbitration before Trial.

VI. If it be made appear, at any Time after the issuing of the Writ, to the Satisfaction of the Court or a Judge, upon the Application of either Party, that the Matter in dispute consists wholly or in part of Matters of mere Account which cannot conveniently be tried in the ordinary Way, it shall be lawful for such Court or Judge, upon such Application, if they or he think fit, to decide such Matter in a summary Manner, or to order that such Matter, either wholly or in part, be referred to an Arbitrator appointed by the Parties, or to the Master of the Court, or, in Country Causes, to the Assistant Barrister of any County or Riding, upon such Terms, as to Costs and otherwise, as such Court or Judge shall think reasonable; and the Decision or Order of such Court or Judge, or the Award or Certificate of such Referee, shall be enforceable by the same Process as the Finding of a Jury upon the Matter referred.

Special Case may be stated, and Question of Fact tried.

VII. If it shall appear to the Court or a Judge that the Allowance or Disallowance of any particular Item or Items in such Account depends upon a Question of Law fit to be decided by the Court, or upon a Question of Fact fit to be decided by a Jury, or by a Judge upon the Consent of both Parties as herein-before provided, it shall be lawful for such Court or Judge to direct a Case to be stated, or an Issue or Issues to be tried; and the Decision of the Court upon such Case, and the Finding of the Jury or Judge upon such Issue or Issues, shall be taken and acted upon by the Arbitrator, Master, or Assistant Barrister, as the Case may be, as conclusive.

Arbitrator may state Special Case.

VIII. It shall be lawful for the Arbitrator, Master, or Assistant Barrister, upon any compulsory Reference under this Act, or upon any Reference by Consent of Parties where the Submission is or may be made a Rule or Order of any of the Superior Courts of Law or Equity at Dublin, if he shall think fit, and if it is not provided to the contrary, to state his Award, as to the whole or any Part thereof, in the Form of a Special Case for the Opinion of the Court, and when an Action is referred, Judgment, if so ordered, may be entered according to the Opinion of the Court.

Power to Judge to direct Arbitration at Time of Trial, when Issues of Fact left to his Decision.

IX. If upon the Trial of any Issue of Fact by a Judge under this Act it shall appear to the Judge that the Questions arising thereon involve Matter of Account which cannot conveniently be tried before him, it shall be lawful for him, on the Application of either Party, to order that such Matter of Account be referred to an Arbitrator appointed by the Parties, or to the Master of the Court, or, in Country Causes, to the Assistant Barrister of any County or

Riding, upon such Terms, as to Costs and otherwise, as such Judge shall think reasonable; and the Award or Certificate of such Referee shall have the same Effect as herein-before provided as to the Award or Certificate of a Referee before Trial; and it shall be competent for the Judge to proceed to try and dispose of any other Matters in question, not referred, in like Manner as if no Reference had been made.

Proceedings before and Power of such Arbitrator.

X. The Proceedings upon any such Arbitration or Reference as aforesaid shall, except otherwise directed hereby or by the Submission or Document authorizing the Reference, be conducted in like Manner, and subject to the same Rules and Enactments, as to the Power of the Arbitrator, Master of the Court, or Assistant Barrister, and of the Court, the Attendance of Witnesses, the Production of Documents, enforcing or setting aside the Award, and otherwise, as upon a Reference made by Consent under a Rule of Court or Judge's Order.

Power to send back to Arbitrator.

XI. In the Case of any such Arbitration or Reference as aforesaid the Court or a Judge shall have Power at any Time, and from Time to Time, to remit the Matters referred, or any or either of them, to the Re-consideration and Re-determination of the said Arbitrator or Referee, upon such Terms, as to Costs and otherwise, as to the said Court or Judge may seem proper.

Application to set aside the Award.

XII. All Applications to set aside any Award made on a compulsory Reference under this Act shall and may be made within the First Seven Days of the Term next following the Publication of the Award to the Parties, whether made in Vacation or Term; and if no such Application is made, or if no Rule is granted thereon, or if any Rule granted thereon is afterwards discharged, such Award shall be final between the Parties.

Enforcing of Awards within Period for setting them aside.

XIII. Any Award made on a compulsory Reference under this Act may, by Authority of a Judge, on such Terms as to him may seem reasonable, be enforced at any Time after Seven Days from the Time of Publication, notwithstanding that the Time for moving to set it aside has not elapsed.

If Action commenced by One Party after all have agreed to Arbitration, Court or Judge may stay Proceedings.]

XIV. Whenever the Parties to any Deed or Instrument in Writing to be hereafter made or executed, or any of them, shall agree that any then existing or future Differences between them or any of them shall be referred to Arbitration, and any One or more of the Parties so agreeing, or any Person or Persons claiming through or under him or them, shall nevertheless commence any Action at Law or Suit in Equity against the other Party or Parties, or any of them, or against any Person or Persons claiming through or under him or them in respect of the Matters so agreed to be referred, or any of them, it shall be lawful for the Court in which the Action or Suit is brought, or a Judge thereof, on Application by the Defendant or Defendants, or any of them, before Appearance and Defence or Answer, upon being satisfied that no sufficient Reason exists why such Matters cannot be or ought not to be referred to Arbitration according to such Agreement as aforesaid, and that the Defendant was at the Time of the bringing of such Action or Suit and still is ready and willing to join and concur in all Acts necessary and proper for causing such Matters so to be decided by Arbitration, to make a Rule or Order staying all Proceedings in such Action or Suit, on such Terms, as to Costs and otherwise, as to such Court or Judge may seem fit: Provided always, that any such Rule or Order may at any Time afterwards be discharged or varied as Justice may require.

On Failure of Parties or Arbitrators, Judge may appoint single Arbitrator or Umpire.

XV. If in any Case of Arbitration the Document authorizing the Reference provide that the Reference shall be to a single Arbitrator, and all the Parties do not, after Differences have arisen, concur in the Appointment of an Arbitrator; or if any appointed Arbitrator refuse to act, or become incapable of acting, or die, and the Terms of such Document do not show that it was intended that such Vacancy should not be supplied, and the Parties do not concur in appointing a new one; or if, where the Parties or Two Arbitrators are at liberty to appoint an Umpire or Third Arbitrator, such Parties or Arbitrators do not appoint an Umpire or Third Arbitrator; or if any appointed Umpire or Third Arbitrator refuse to act, or become incapable of acting, or die, and the Terms of the Document authorizing the Reference do not show that it was intended that such a Vacancy should not be supplied, and the Parties or Arbitrators respectively do not appoint a new one; then in every such Instance any Party may serve the remaining Parties or the Arbitrators, as the Case may be, with a written Notice to appoint an Arbitrator, Umpire, or Third Arbitrator respectively; and if within Seven clear Days after such Notice shall have been served no Arbitrator, Umpire, or Third Arbitrator be appointed, it shall be lawful for the Court or any Judge of any of the Superior Courts of Law or Equity at Dublin, upon the Application of the Party having served such Notice as aforesaid, to appoint an Arbitrator, Umpire, or Third Arbitrator, as the Case may be, and such Arbitrator, Umpire, and Third Arbitrator respectively shall have the like Power to act in the Reference and make an Award as if he had been appointed by Consent of all Parties.

When Reference is to Two Arbitrators and One Party fail to appoint, other Party may appoint Arbitrator to act alone.

XVI. When the Reference is or is intended to be to Two Arbitrators, One appointed by each Party, it shall be lawful for either Party, in the Case of the Death, Refusal to act, or Incapacity of any Arbitrator appointed by him, to substitute a new Arbitrator, unless the Document authorizing the Reference show that it was intended that the Vacancy should not be supplied; and if on such a Reference One Party fail to appoint an Arbitrator, either originally or by way of Substitution as aforesaid, for Seven clear Days after the other Party shall have appointed an Arbitrator, and shall have served the Party so failing to appoint with Notice in Writing to make the Appointment, the Party who has appointed an Arbitrator may appoint such Arbitrator to act as sole Arbitrator in the Reference, and an Award made by him shall be binding on both Parties as if the Appointment had been by Consent; provided, however, that the Court or a Judge may revoke such Appointment, on such Terms as shall seem just.

Two Arbitrators may appoint Umpire.

XVII. When the Reference is to Two Arbitrators, and the Terms of the Document authorizing it do not show that it was intended that there should not be an Umpire, or provide otherwise for the Appointment of an Umpire, the Two Arbitrators may appoint an Umpire at any Time within the Period during which they have Power to make an Award, unless they be called upon by Notice as aforesaid to make the Appointment sooner.

Award to be made in Three Months unless Parties or Court enlarge Time.

XVIII. The Arbitrator acting under any such Document or compulsory Order of Reference as aforesaid, or under any Order referring the Award back, shall make his Award under his Hand, and (unless such Document or Order respectively shall contain a different Limit of Time) within Three Months after he shall have been appointed, and shall have entered on the Reference, or shall have been called upon to act by a Notice in Writing from any Party, but the Parties may by Consent in Writing enlarge the Term for making the Award; and it shall be lawful for the Court of which such Submission, Document, or Order is or may be made a Rule or Order, or for any Judge thereof, for good Cause to be stated in the Rule or Order for Enlargement, from Time to Time to enlarge the Term for making the Award; and if no Period be stated for the Enlargement in such Consent or Order for Enlargement, it shall be deemed to be an Enlargement for One Month; and in any Case where an Umpire shall have been appointed it shall be lawful for him to enter on the Reference in lieu of the Arbitrators, if the latter shall have allowed their Time or their extended Time to expire without making an Award, or shall have delivered to any Party or to the Umpire a Notice in Writing stating that they cannot agree.

Rule to deliver Possession of Land pursuant to Award to be enforced as a Judgment in Ejectment.

XIX. When any Award made on any such Submission, Document, or Order of Reference as aforesaid directs that Possession of any Lands or Tenements capable of being the Subject of an Action of Ejectment shall be delivered to any Party, either forthwith or at any future Time, or that any such Party is entitled to the Possession of any such Lands or Tenements, it shall be lawful for the Court of which the Document authorizing the Reference is or is made a Rule or Order to order any Party to the Reference who shall be in possession of any such Lands or Tenements, or any Person in possession of the same claiming under or put in possession by him since the making of the Document authorizing the Reference, to deliver Possession of the same to the Party entitled thereto, pursuant to the Award, and such Rule or Order to deliver Possession shall have the Effect of a Judgment in Ejectment against every such Party or Person named in it, and Execution may issue, and Possession shall be delivered by the Sheriff as on a Judgment in Ejectment.

Agreement or Submission in Writing may be made Rule of Court, unless a contrary Intention appear.

XX. Every Agreement or Submission to Arbitration by Consent, whether by Deed or Instrument in Writing not under Seal, may be made a Rule of any One of the Superior Courts of Law or Equity at Dublin, on the Application of any Party thereto, unless such Agreement or Submission contain Words purporting that the Parties intend that it should not be made a Rule of Court; and if in any such Agreement or Submission it is provided that the same shall or may be made a Rule of One in particular of such Superior Courts, it may be made a Rule of that Court only; and if when there is no such Provision a Case be stated in the Award for the Opinion of One of the Superior Courts, and such Court be specified in the Award, and the Document authorizing the Reference have not, before the Publication of the Award to the Parties, been made a Rule of Court, such Document may be made a Rule only of the Court specified in the Award; and when in any Case the Document authorizing the Reference is or has been made a Rule or Order of any One of such Superior Courts, no other of such Courts shall have any Jurisdiction to entertain any Motion respecting the Arbitration or Award.

CLAUSE B.
Speeches to the Jury.

XXI. Upon the Trial of any Cause the Addresses to the Jury shall be regulated as follows: The Party who begins, or his Counsel, shall be allowed, in the event of his Opponent not announcing at the Close of the Case of the Party who begins his Intention to adduce Evidence, to address the Jury a Second Time at the Close of such Case, for the Purpose of summing up the Evidence; and the Party on the other Side, or his Counsel, shall be allowed to open the Case, and also to sum up the Evidence (if any); and the Right to reply shall be the same as at present.

CLAUSE C.
Power to adjourn Trial.

XXII. It shall be lawful for the Court or Judge, at the Trial of any Cause, where they or he may deem it right for the Purposes of Justice, to order an Adjournment for such Time, and subject to such Terms and Conditions as to Costs, and otherwise, as they or he may think fit.

CLAUSE D.
Affirmation instead of Oath in certain Cases.

XXIII. If any Person called as a Witness, or required or desiring to make an Affidavit or Deposition, shall refuse or be unwilling from alleged conscientious Motives to be sworn, it shall be lawful for the Court or Judge or other presiding Officer, or Person qualified to take Affidavits or Depositions, upon being satisfied of the Sincerity of such Objection, to permit such Person, instead of being sworn, to make his or her solemn Affirmation or Declaration in the Words following; videlicet,

'I A.B. do solemnly, sincerely, and truly affirm and declare, That 'the taking of any Oath is, according to my religious Belief, 'unlawful; and I do also solemnly, sincerely, and truly affirm and 'declare, &c.'

Which solemn Affirmation and Declaration shall be of the same Force and Effect as if such Person had taken an Oath in the usual Form.

Clause E. Persons making a false Affirmation to be subject to the same Punishment as for Perjury.

XXIV. If any Person making such solemn Affirmation or Declaration shall wilfully, falsely, and corruptly affirm or declare any Matter or Thing which, if the same had been sworn in the usual Form, would have amounted to wilful and corrupt Perjury, every such Person so offending shall incur the same Penalties as by the Laws and Statutes of this Kingdom are or may be enacted or provided against Persons convicted of wilful and corrupt Perjury.

Clause F. How far a Party may discredit his own Witness.

XXV. A Party producing a Witness shall not be allowed to impeach his Credit by general Evidence of bad Character, but he may, in case the Witness shall in the Opinion of the Judge prove adverse, contradict him by other Evidence, or, by Leave of the Judge, prove that he has made at other Times a Statement inconsistent with his present Testimony; but before such last-mentioned Proof can be given, the Circumstances of the supposed Statement, sufficient to designate the particular Occasion, must be mentioned to the Witness, and he must be asked whether or not he has made such Statement.

Clause G. Proof of contradictory Statements of adverse Witness.

XXVI. If a Witness, upon Cross-examination as to a former Statement made by him relative to the Subject Matter of the Cause, and inconsistent with his present Testimony, does not distinctly admit that he has made such Statement, Proof may be given that he did in fact make it; but before such Proof can be given, the Circumstances of the supposed Statement, sufficient to designate the particular Occasion, must be mentioned to the Witness, and he must be asked whether or not he has made such Statement.

Clause H. Cross-examination as to previous Statements in Writing.

XXVII. A Witness may be cross-examined as to previous Statements made by him in Writing, or reduced into Writing, relative to the Subject Matter of the Cause, without such Writing being shown to him; but if it is intended to contradict such Witness by the Writing, his Attention must, before such contradictory Proof can be given, be called to those Parts of the Writing which are to be used for the Purpose of so contradicting him: Provided always, that it shall be competent for the Judge, at any Time during the Trial, to require the Production of the Writing for his Inspection, and he may thereupon make such Use of it for the Purposes of the Trial as he shall think fit.

Clause I.
Proof of previous Conviction of a Witness may be given.

XXVIII. A Witness in any Cause may be questioned as to whether he has been convicted of any Felony or Misdemeanor, and, upon being so questioned, if he either denies the Fact, or refuses to answer, it shall be lawful for the opposite Party to prove such Conviction; and a Certificate containing the Substance and Effect only (omitting the formal Part) of the Indictment and Conviction for such Offence, purporting to be signed by the Clerk of the Court or other Officer having the Custody of the Records of the Court where the Offender was convicted, or by the Deputy of such Clerk or Officer, (for which Certificate a Fee of Five Shillings and no more shall be demanded or taken,) shall, upon Proof of the Identity of the Person, be sufficient Evidence of the said Conviction, without Proof of the Signature or official Character of the Person appearing to have signed the same.

Clause K.
Attesting Witness need not be called, except in certain Cases.

XXIX. It shall not be necessary to prove by the attesting Witness any Instrument to the Validity of which Attestation is not requisite; and such Instrument may be proved by Admission, or otherwise, as if there had been no attesting Witness thereto.

Clause L.
Comparison of disputed Writing.

XXX. Comparison of a disputed Writing with any Writing proved to the Satisfaction of the Judge to be genuine shall be permitted to be made by Witnesses; and such Writings, and the Evidence of Witnesses respecting the same, may be submitted to the Court and Jury as Evidence of the Genuineness, or otherwise, of the Writing in dispute.

Clause V.
Copy of Will to be sufficient Evidence.

XXXI. In any Action at Law or Suit in Equity where, according to the existing Law, it would be necessary to produce and prove an original Will or other Testamentary Instrument in order to establish a Devise or other Testamentary Disposition, Probate or Letters of Administration of such Will or other Testamentary Instrument, or a Copy thereof purporting to be certified as a true Copy by some Officer of the Testamentary Court in which the same shall have been lodged, shall be sufficient Evidence of such Will or other Testamentary Instrument and its Contents; provided that the Party intending to produce such Probate, Letters of Administration, or Copy shall have given Seven Days Notice of such his Intention to the opposite Party, and unless the Party receiving such Notice shall, within Three Days thereafter, by a counter Notice, require the Production and Proof of the original Will or other Testamentary Instrument.

Clause W.
Costs of Proof of Will.

XXXII. In every Case in which, after the Notices mentioned in the last Section, the original Will or other Testamentary Instrument shall be produced and proved, it shall be lawful for the Court or Judge before whom such Evidence shall be given to direct by which of the Parties the Costs thereof shall be paid.

Clause M.
Provision for stamping Documents at the Trial.

XXXIII. Upon the Production of any Document as Evidence at the Trial of any Cause, it shall be the Duty of the Officer of the Court whose Duty it is to read such Document to call the Attention of the Judge to any Omission or Insufficiency of the Stamp; and the Document, if unstamped, or not sufficiently stamped, shall not be received in Evidence until the whole or (as the Case may be) the Deficiency of the Stamp Duty, and the Penalty required by Statute, together with the additional Penalty of One Pound, shall have been paid.

Clause N.
Officer of the Court to receive the Duty and Penalty.

XXXIV. Such Officer of the Court shall, upon Payment to him of the whole or (as the Case may be) of the Deficiency of the Stamp Duty payable upon or in respect of such Document, and of the Penalty required by Statute, and of the additional Penalty of One Pound, give a Receipt for the Amount of the Duty or Deficiency which the Judge shall determine to be payable, and also of the Penalty, and thereupon such Document shall be admissible in Evidence, saving all just Exceptions on other Grounds; and an Entry of the Fact of such Payment and of the Amount thereof shall be made in a Book kept by such Officer; and such Officer shall, at the End of each Sittings or Assizes (as the Case may be), duly make a Return to the Commissioners of the Inland Revenue of the Monies, if any, which he has so received by way of Duty or Penalty, distinguishing between such Monies, and stating the Name of the Cause and of the Parties from whom he received such Monies, and the Date, if any, and Description of the Document, for the Purpose of identifying the same; and he shall pay over the said Monies to the Receiver General of the Inland Revenue, or to such Person as the said Commissioners shall appoint or authorize to receive the same; and in case such Officer shall neglect or refuse to furnish such Account, or to pay over any of the Monies so received by him as aforesaid, he shall be liable to be proceeded against in the Manner directed by the Eighth Section of an Act passed in the Session of Parliament holden in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, intituled "An Act to repeal certain Stamp Duties, and to grant others in lieu "thereof, and to amend the Laws relating to the Stamp Duties;" and the said Commissioners shall, upon Request, and Production of the

13 & 14 Vict. c. 97.

the Receipt herein-before mentioned, cause such Documents to be stamped with the proper Stamp or Stamps in respect of the Sums so paid as aforesaid: Provided always, that the aforesaid Enactment shall not extend to any Document which cannot now be stamped after the Execution thereof on Payment of the Duty and a Penalty.

Clause O.
No Document under this Act to require a Stamp.

XXXV. No Document made or required under the Provisions of this Act shall be liable to any Stamp Duty.

Clause P.
No new Trial for ruling as to Stamp.

XXXVI. No new Trial shall be granted by reason of the ruling of any Judge that the Stamp upon any Document is sufficient, or that the Document does not require a Stamp.

Clause Q.
Error may be brought on a Special Case.

XXXVII. Error may be brought upon a Judgment upon a Special Case stated under this Act in any Award in the same Manner as upon a Judgment upon a Special Verdict, unless the Parties agree to the contrary; and the Proceedings for bringing such Special Case before the Court of Error shall, as nearly as may be, be the same as in the Case of a Special Verdict; and the Court of Error shall either affirm the Judgment or give the same Judgment as ought to have been given in the Court in which it was originally decided, the said Court of Error being required to draw any Inferences of Fact from the Facts stated in such Special Case which the Court where it was originally decided ought to have drawn.

Grounds to be stated in Rule Nisi for new Trial.

XXXVIII. In every Rule Nisi for a new Trial or to enter a Verdict or Nonsuit, the Grounds upon which such Rule shall have been granted shall be shortly stated therein.

If Rule Nisi refused, Party may appeal.

XXXIX. In all Cases of Rules to enter a Verdict or Nonsuit upon a Point reserved at the Trial, if the Rule to show Cause be refused or granted and then discharged or made absolute, the Party decided against may appeal.

Appeal upon Rule discharged or absolute.

XL. In all Cases of Motions for a new Trial upon the Ground that the Judge has not ruled according to Law, if the Rule to show Cause be refused, or if granted be then discharged or made absolute, the Party decided against may appeal, provided any One of the Judges dissent from the Rule being refused, or, when granted, being discharged or made absolute, as the Case may be, or, provided the Court in its Discretion think fit that an Appeal should be allowed; provided, that where the Application for a new Trial is upon Matter of Discretion only, as on the Ground that the Verdict was against the Weight of Evidence or otherwise, no such Appeal shall be allowed.

Courts of Error to be Courts of Appeal.

XLI. The Court of Exchequer Chamber and the House of Lords shall be Courts of Appeal for the Purposes of this Act.

Notice of Appeal.

XLII. No Appeal shall be allowed unless Notice thereof be given in Writing to the opposite Party or his Attorney, and to the Master of the Court, within Four Days after the Decision complained of, or such further Time as may be allowed by the Court or a Judge.

Bail.

XLIII. Notice of Appeal shall be a Stay of Execution, provided Bail to pay the Sum recovered and Costs, or to pay Costs where the Appellant was Plaintiff below, be given, in like Manner and to the same Amount as Bail in Error, within Eight Days after the Decision complained of, or before Execution delivered to the Sheriff.

Form of Appeal.

XLIV. The Appeal herein-before mentioned shall be upon a Case to be stated by the Parties, (and in case of Difference, to be settled by the Court or a Judge of the Court appealed from,) in which Case shall be set forth so much of the Pleadings, Evidence, and the Ruling or Judgment objected to, as may be necessary to raise the Question for the Decision of the Court of Appeal.

Rule Nisi granted on Appeal, how disposed of.

XLV. When the Appeal is from the Refusal of the Court below to grant a Rule to show Cause, and the Court of Appeal grant such Rule, such Rule shall be argued and disposed of in the Court of Appeal.

Appeal Court to give Judgment of Court below.

XLVI. The Court of Appeal shall give such Judgment as ought to have been given in the Court below; and all such further Proceedings may be taken thereupon as if the Judgment had been given by the Court in which the Record originated.

Powers of Court of Appeal as to Costs and otherwise.

XLVII. The Court of Appeal shall have Power to adjudge Payment of Costs, and to order Restitution; and they shall have the same Powers as the Court in which the Record originated in respect of awarding Process and otherwise.

Error upon Award of Trial de novo.

XLVIII. Upon an Award of a Trial de novo by any One of the Superior Courts, or the Court of Exchequer Chamber, upon Matter appearing upon the Record, Error may at once be brought; and if the Judgment in such or any other Case be affirmed in Error, it shall be lawful for the Court of Error to adjudge Costs to the Defendant in Error.

Payment of Costs upon new Trial on Matter of Fact.

XLIX. When a new Trial is granted, on the Ground that the Verdict was against Evidence, the Costs of the First Trial shall abide the Event, unless the Court shall otherwise order.

Power to Court or Judge to direct oral Examination of Witnesses.

L. Upon the Hearing of any Motion it shall be lawful for the Court or Judge, at their or his Discretion, and upon such Terms as they or he shall think reasonable, from Time to Time to order such Documents as they or he may think fit to be produced, and such Witnesses as they or he may think necessary to appear, and be examined vivâ voce, either before such Court or Judge, or before the

Master, and upon hearing such Evidence, or reading the Report of such Master, to make such Rule or Order as may be just.

Proceedings before and upon such Examination.

3 & 4 Vict. c. 105.

LI. The Court or Judge may by such Rule or Order, or any subsequent Rule or Order, command the Attendance of the Witnesses named therein, for the Purpose of being examined, or the Production of any Writings or other Documents to be mentioned in such Rule or Order; and such Rule or Order shall be proceeded upon in the same Manner, and shall have the same Force and Effect, as a Rule of the Court under the Act of the Third and Fourth Victoria, Chapter One hundred and five; and it shall be lawful for the Court, or Judge, or Master to adjourn the Examination from Time to Time as Occasion may require; and the Proceedings upon such Examination shall be conducted, and the Depositions taken down, as nearly as may be, in the Mode now in use with respect to the vivâ voce Examination of Witnesses under the last-mentioned Act.

Examination of Person who refuses to make an Affidavit.

LII. Any Party to any Action, Suit, or other Civil Proceeding in any of the Superior Courts, requiring the Affidavit of a Person who refuses to make an Affidavit, may apply by Notice for an Order to such Person to appear and be examined upon Oath before a Judge or Master as to the Matters concerning which he has refused to make an Affidavit; and the Court or Judge may make such Order for the Attendance of such Person before the Judge or Master appointed to take such Examination, for the Purpose of being examined as aforesaid, and for the Production of any Writings or Documents to be mentioned in such Order, and may therein impose such Terms as to such Examination, and the Costs of the Application and Proceedings thereon, as shall appear just.

Proceedings upon Order for Examination.

3 & 4 Vict. c. 105.

LIII. Such Order shall be proceeded upon in like Manner as an Order made under the herein-before mentioned Act of the Third and Fourth Victoria, Chapter One hundred and five, and the Examination thereon shall be conducted, and the Depositions taken down and returned, as nearly as may be, in the Mode now used on vivâ voce Examinations under the said Act of Parliament.

Discovery of Documents.

LIV. Upon the Application of either Party to any Action, Suit, or other Civil Proceeding in any of the Superior Courts, upon an Affidavit by such Party of his Belief that any Document, to the Production of which he is entitled for the Purpose of Discovery or otherwise, is in the Possession or Power of the opposite Party, it shall be lawful for the Court or Judge to order that the Party against whom such Application is made, or if such Party is a Body Corporate that some Officer to be named of such Body Corporate, shall answer on Affidavit, stating what Documents he or they has or have in his or their Possession or Power relating to the Matters in dispute, or what he knows as to the Custody they or any of them are in, and whether he or they objects or object (and if so, on what Grounds,) to the Production of such as are in his or their Possession or Power; and upon such Affidavit being made the Court or Judge may make such further Order thereon as shall be just.

Power to deliver written Interrogatories to opposite Party.

LV. In all Causes in any of the Superior Courts, by Order of the Court or a Judge, the Plaintiff may, with the Writ of Summons and Plaint, and the Defendant may, with the Appearance and Defence, or either of them, by Leave of the Court or a Judge, may, at any other Time, deliver to the opposite Party or his Attorney (provided such Party, if not a Body Corporate, would be liable to be called and examined as a Witness upon such Matter) Interrogatories in Writing upon any Matter as to which Discovery may be sought, and require such Party, or in the Case of a Body Corporate any of the Officers of such Body Corporate, within Ten Days, to answer the Questions in Writing by Affidavit, to be sworn and filed in the ordinary Way; and any Party or Officer omitting, without just Cause, sufficiently to answer all Questions as to which a Discovery may be sought within the above Time, or such extended Time as the Court or a Judge shall allow, shall be deemed to have committed a Contempt of the Court, and shall be liable to be proceeded against accordingly.

Affidavits by Party proposing to interrogate, and his Attorney.

LVI. The Application for such Order shall be made upon an Affidavit of the Party proposing to interrogate, and his Attorney or Agent, or, in the Case of a Body Corporate, of their Attorney or Agent, stating that the Deponents or Deponent believe or believes that the Party proposing to interrogate, whether Plaintiff or Defendant, will derive material Benefit in the Cause from the Discovery which he seeks, that there is a good Cause of Action or Defence upon the Merits, and, if the Application be made on the Part of the Defendant, that the Discovery is not sought for the Purpose of Delay; provided that where it shall happen, from unavoidable Circumstances, that the Plaintiff or Defendant cannot join in such Affidavit, the Court or Judge may allow and order that the Interrogatories may be delivered without such Affidavit.

Oral Examination of Parties, when to be allowed.

LVII. In case of Omission, without just Cause, to answer sufficiently such written Interrogatories, the Court or a Judge may direct an oral Examination of the interrogated Party, as to such Points as shall appear fit, before a Judge or the Master; and the Court or Judge may by such Rule or Order, or any subsequent Rule or Order, command the Attendance of such Party or Parties before the Person appointed to take such Examination, for the Purpose of being orally examined as aforesaid, or the Production of any Writings or other

Documents to be mentioned in such Rule or Order, and may impose therein such Terms as to such Examination, and the Costs of the Application, and of the Proceedings thereon, and otherwise, as to such Court or Judge shall seem just.

Proceedings upon such Rule or Order.

LVIII. Such Rule or Order shall have the same Force and Effect, and may be proceeded upon in like Manner, as an Order made under the said herein-before mentioned Act of the Third and Fourth Victoria, Chapter One hundred and five.

Depositions upon such Examinations to be returned to Master's Office.

LIX. Whenever, by virtue of this Act, an Examination of any Witness or Witnesses has been taken before a Judge of One of the said Superior Courts, or before the Master, the Depositions shall be returned to and kept in the Master's Office of the Court in which the Proceedings are pending; and Office Copies of such Depositions may be given out, and the Depositions may be otherwise used, in the same Manner as in the Case of Depositions taken under the herein-before mentioned Act of the Third and Fourth Victoria, Chapter One hundred and five.

Examiner may make Report to the Court.

LX. It shall be lawful for every Judge or Master named in any such Rule or Order as aforesaid for taking Examinations under this Act, and he is hereby required to make, if need be, a special Report to the Court in which such Proceedings are pending, touching such Examination, and the Conduct or Absence of any Witness or other Person thereon or relating thereto; and the Court is hereby authorized to institute such Proceedings and make such Order and Orders upon such Report as Justice may require, and as may be instituted and made in any Case of Contempt of the Court.

Costs of Rule and Examination to be in the Discretion of the Court.

LXI. The Costs of every Application for any Rule or Order to be made for the Examination of Witnesses by virtue of this Act, and of the Rule or Order and Proceedings thereon, shall be in the Discretion of the Court or Judge by whom such Rule or Order is made.

Judge may order an Attachment of Debts.

LXII. It shall be lawful for a Judge, upon the ex-parte Application of a Judgment Creditor, and upon Affidavit by himself or his Attorney stating that Judgment has been recovered, and that it is still unsatisfied, and to what Amount, and that any other Person is indebted to the Judgment Debtor, and is within the Jurisdiction, to order that all Debts owing or accruing from such Third Person (herein-after called the Garnishee) to the Judgment Debtor shall be attached to answer the Judgment Debt; and by the same or any subsequent

Order it may be ordered that the Garnishee shall appear before the Judge or Master, as such Judge shall appoint, to show Cause why he should not pay the Judgment Creditor the Debt due from him to the Judgment Debtor, or so much thereof as may be sufficient to satisfy the Judgment Debt.

Order for Attachment to bind Debts.

LXIII. Service of an Order that Debts due or accruing to the Judgment Debtor shall be attached, or Notice thereof to the Garnishee, in such Manner as the Judge shall direct, shall bind such Debts in his Hands.

Proceedings to levy Amount due from Garnishee to Judgment Debtor.

LXIV. If the Garnishee does not forthwith pay into Court the Amount due from him to the Judgment Debtor, or an Amount equal to the Judgment Debt, and does not dispute the Debt due or claimed to be due from him to the Judgment Debtor, or if he does not appear upon Summons, then the Court or a Judge may order Execution to issue, and it may be sued forth accordingly, without any previous Writ or Process, to levy the Amount due from such Garnishee towards Satisfaction of the Judgment Debt.

Judge may allow Judgment Creditor to sue Garnishee.

LXV. If the Garnishee disputes his Liability, the Court or a Judge, instead of making an Order that Execution shall issue, may order that the Judgment Creditor shall be at liberty to proceed against the Garnishee by Writ, calling upon him to show cause why there should not be Execution against him for the alleged Debt, or for the Amount due to the Judgment Debtor, if less than the Judgment Debt, and for Costs of Suit; and the Proceedings upon such Suit shall be the same, as nearly as may be, as upon a Writ of Revivor issued under "The Common Law Procedure Act Amendment Act, Ireland, 1853."

Garnishee discharged.

LXVI. Payment made by or Execution levied upon the Garnishee under any such Proceeding as aforesaid shall be a valid Discharge to him as against the Judgment Debtor to the Amount paid or levied, although such Proceeding may be set aside or the Judgment reversed.

Attachment Book to be kept by the Masters of each Court.

LXVII. In each of the Superior Courts there shall be kept at the Master's Office a Debt Attachment Book, and in such Book Entries shall be made of the Attachment and Proceedings thereon, with Names, Dates, and Statements of the Amount recovered, and otherwise; and the Mode of keeping such Books shall be the same in all the Courts; and Copies of any Entries made therein may be taken by any Person, upon Application to the Master.

Costs of Application.

LXVIII. The Costs of any Application for an Attachment of Debt under this Act, and of any Proceedings arising from or incidental to such Application, shall be in the Discretion of the Court or a Judge.

LXIX. The

Action for Mandamus to enforce the Performance of Duties.

LXIX. The Plaintiff in any Action in any of the Superior Courts, except Replevin and Ejectment, may claim in the Writ of Summons and Plaint, either together with any other Demand which may now be enforced in such Action, or separately, a Writ of Mandamus commanding the Defendant to fulfil any Duty in the Fulfilment of which the Plaintiff is personally interested.

Declaration in Action for Mandamus.

LXX. The Writ of Summons and Plaint in such Action shall set forth sufficient Grounds upon which such Claim is founded, and shall set forth that the Plaintiff is personally interested therein, and that he sustains or may sustain Damage by the Nonperformance of such Duty, and that Performance thereof has been demanded by him, and refused or neglected.

Proceedings upon Claim for Mandamus.

LXXI. The Pleadings and other Proceedings in any Action in which a Writ of Mandamus is claimed shall be the same in all respects, as nearly as may be, and Costs shall be recoverable by either Party, as in an ordinary personal Action.

Judgment and Execution.

LXXII. In case Judgment shall be given for the Plaintiff that a Mandamus do issue, it shall be lawful for the Court in which such Judgment is given, if it shall see fit, besides issuing Execution in the ordinary Way for the Costs and Damages, also to issue a peremptory Writ of Mandamus to the Defendant, commanding him forthwith to perform the Duty to be enforced.

Form of peremptory Writ.

LXXIII. The Writ need not recite the Writ of Summons and Plaint, or other Proceedings, or the Matter therein stated, but shall simply command the Performance of the Duty, and in other respects shall be in the Form of an ordinary Writ of Execution, except that it shall be directed to the Party and not to the Sheriff, and may be issued in Term or Vacation, and returnable forthwith; and no Return thereto, except that of Compliance, shall be allowed, but Time to return it may, upon sufficient Grounds, be allowed by the Court or a Judge, either with or without Terms.

Effect of Writ of Mandamus and Proceedings to enforce it.

LXXIV. The Writ of Mandamus so issued as aforesaid shall have the same Force and Effect as a peremptory Writ of Mandamus issued out of the Court of Queen's Bench, and in case of Disobedience may be enforced by Attachment.

The Court may order the Act to be done at the Expense of the Defendant.

LXXV. The Court or a Judge may, upon Application by the Plaintiff, besides or instead of proceeding against the disobedient Party by Attachment, direct that the Act required to be done may be done by the Plaintiff, or some other Person appointed by the Court, at the Expense of the Defendant; and upon the Act being done, the Amount of such Expense may be ascertained by the Court, either by Writ of Inquiry or Reference to the Master, as the Court or a Judge may order; and the Court may order Payment of the Amount of such Expenses and Costs, and enforce Payment thereof by Execution.

Prerogative Writ of Mandamus preserved.

LXXVI. Nothing herein contained shall take away the Jurisdiction of the Court of Queen's Bench to grant Writs of Mandamus; nor shall any Writ of Mandamus issued out of that Court be invalid by reason of the Right of the Prosecutor to proceed by Action for Mandamus under this Act.

Proceedings for Prerogative Writ of Mandamus accelerated.

LXXVII. Upon Application by Motion for any Writ of Mandamus in the Court of Queen's Bench, the Rule may in all Cases be absolute in the first instance, if the Court shall think fit; and the Writ may bear Teste on the Day of its issuing, and may be made returnable forthwith, whether in Term or in Vacation, but Time may be allowed to return it, by the Court or a Judge, either with or without Terms.

Proceedings on Prerogative Writ of Mandamus.

LXXVIII. The Provisions of "The Common Law Procedure Amendment Act (Ireland), 1853," and of this Act, so far as they are applicable, shall apply to the Pleadings and Proceedings upon a Prerogative Writ of Mandamus issued by the Court of Queen's Bench, but subject to any General Rules which the said Court may make, and which it is hereby empowered to make in relation thereto.

Specific Delivery of Chattels.

LXXIX. The Court or a Judge shall have Power, if they or he see fit so to do, upon the Application of the Plaintiff in any Action for the Detention of any Chattel, to order that Execution shall issue for the Return of the Chattel detained, without giving the Defendant the Option of retaining such Chattel upon paying the Value assessed, and that if the said Chattel cannot be found, and unless the Court or a Judge should otherwise order, the Sheriff shall distrain the Defendant by all his Lands and Chattels in the said Sheriff's Bailiwick, till the Defendant render such Chattel, or, at the Option of the Plaintiff, that he cause to be made of the Defendant's Goods the Assessed Value of such Chattel; provided that the Plaintiff shall, either by the same or a separate Writ of Execution, be entitled to have made of the Defendant's Goods the Damages, Costs, and Interest in such Action.

Claim of Writ of Injunction.

LXXX. In all Cases of Breach of Contract or other Injury, where the Party injured is entitled to maintain and has brought an Action, he may, in like Case and Manner as herein-before provided with respect to Mandamus, claim a Writ of Injunction against the Repetition or

Continuance of such Breach of Contract or other Injury, or the Committal of any Breach of Contract or Injury of a like kind, arising out of the same Contract, or relating the same Property or Right; and he may also in the same Action include a Claim for Damages or other Redress.

Form of Writ of Summons and Endorsement thereon.

LXXXI. The Writ of Summons and Plaint in such Action shall be in the same Form as the Writ of Summons and Plaint in any personal Action, but on every such Writ and Copy thereof there shall be endorsed a Notice that in default of Appearance the Plaintiff may, besides proceeding to Judgment and Execution for Damages and Costs, apply for and obtain a Writ of Injunction.

Form of Proceedings and of Judgment.

LXXXII. The Proceedings in such Action shall be the same, as nearly as may be, and subject to the like Control, as the Proceedings in an Action to obtain a Mandamus under the Provisions herein-before contained; and in such Action Judgment may be given that the Writ of Injunction do or do not issue, as Justice may require; and in case of Disobedience such Writ of Injunction may be enforced by Attachment by the Court or by a Judge.

Writ of Injunction may be applied for at any Stage of the Cause.

LXXXIII. It shall be lawful for the Plaintiff at any Time after the Commencement of the Action, and whether before or after Judgment, to apply ex parte to the Court or a Judge for a Writ of Injunction to restrain the Defendant in such Action from the Repetition or Continuance of the wrongful Act or Breach of Contract complained of, or the Committal of any Breach of Contract or Injury of a like kind, arising out of the same Contract, or relating to the same Property or Right; and such Writ may be granted or denied by the Court or Judge upon such Terms as to the Duration of the Writ, keeping an Account, giving Security, or otherwise, as to such Court or Judge shall seem reasonable and just, and in case of Disobedience such Writ may be enforced by Attachment: Provided always, that any Order for a Writ of Injunction made by a Judge, or any Writ issued by virtue thereof, may be discharged or varied or set aside by the Court, on Application made thereto by any Party dissatisfied with such Order.

Equitable Defence may be pleaded.

LXXXIV. It shall be lawful for the Defendant in any Action and for the Plaintiff in any Action for Replevin of Goods in any of the Superior Courts in which, if Judgment were obtained, he would be entitled to Relief against such Judgment on equitable Grounds, to plead the Facts which entitle him to such Relief, and the said Courts are hereby empowered to receive such Pleading; provided that such Pleading shall begin with the Words " For Defence on equitable Grounds," or Words to the like Effect.

Equitable Defence after Judgment.

LXXXV. Any such Matter which, if it arose before or during the Time for pleading, would be an Answer to the Action if pleaded, may, if it arise after the Lapse of the Period during which it could be pleaded, be set up by way of Auditâ querelâ, or in such other Manner as the Judges may by any General Rules or Orders direct.

Equitable Replication.

LXXXVI. It shall be lawful for the Court or a Judge to permit any of the Parties to reply, in answer to any Pleading of the opposite Facts which avoid such Pleading upon equitable Grounds; provided that such Reply shall begin with the Words "For Replication on equitable Grounds," or Words to the like Effect.

Court or Judge may strike out equitable Plea or Replication.

LXXXVII. If it shall appear to the Court or a Judge that any such equitable Pleading cannot be dealt with by a Court of Law so as to do Justice between the Parties, it shall be lawful for such Court or Judge to order the same to be struck out on such Terms, as to Costs and otherwise, as may seem reasonable.

Actions on lost Instruments.

LXXXVIII. In case of any Action founded upon a Bill of Exchange or other negotiable Instrument, it shall be lawful for the Court or a Judge to order that the Loss of such Instrument shall not be set up, provided an Indemnity is given, to the Satisfaction of the Court, Judge, or Master, against the Claims of any other Person upon such negotiable Instrument.

Jurisdiction under Merchant Shipping Act, 1854.

LXXXIX. The Superior Courts or any Judge thereof may, upon summary Application, by Rule or Order, exercise such and the like Jurisdiction as may, under Section 514 of the Merchant Shipping Act, 1854, be exercised by any Court of Equity.

False Evidence.

XC. Any Person who shall, upon any Examination upon Oath or Affirmation, or in any Affidavit in Proceedings under this Act, wilfully and corruptly give false Evidence, or wilfully and corruptly swear or affirm anything which shall be false, being convicted thereof, shall be liable to the Penalties of wilful and corrupt Perjury.

To compel Continuance or Abandonment of Action in case of Death.

XCI. Where an Action would, but for the Provisions of "The Common Law Procedure Amendment Act (Ireland), 1853," have abated by reason of the Death of either Party, and in which the Proceedings may be revived and continued under that Act, the Defendant or Person against whom the Action may be so continued may apply by Notice to compel the Plaintiff, or Person entitled to proceed with the Action in the Room of the Plaintiff, to proceed according to the Provisions of the said Act within such Time as the Court or Judge shall order; and in default of such Proceeding the Defendant or other Person against whom the Action may be so continued as aforesaid shall be entitled to enter a Suggestion of such Default, and of the representative Character of the Person by or against whom the Action may be proceeded with, as the Case may be, and to have Judgment for the Costs of the Action and Suggestion against the Plaintiff, or against the Person entitled to proceed in his Room, as the Case may be, and in the latter Case to be levied of the Goods of the Testator or Intestate.

Clause X.
Effect of a Judgment in Ejectment.

XCII. A Judgment in an Action of Ejectment under the Common Law Procedure Amendment Act (Ireland), 1853, shall have no greater Effect than a Judgment in an Ejectment before the passing of an Act made in the Session of Parliament holden in the Thirteenth and Fourteenth Years of the Reign of the Queen, Chapter Eighteen.

Claimant in Second Ejectment for same Premises against same Defendant may be ordered to give Security for Costs.

XCIII. If any Person shall bring an Action of Ejectment after a prior Action of Ejectment for the same Premises has been or shall have been unsuccessfully brought by such Person, or by any Person through or under whom he claims against the same Defendant, or against any Person through or under whom he defends, the Court or a Judge may, on the Application of the Defendant, at any Time order that the Plaintiff shall give to the Defendant Security for the Payment of the Defendant's Costs, and that all further Proceedings in the Cause shall be stayed until such Security be given, whether the prior Action has been or shall have been disposed of by Discontinuance, or by Nonsuit, or by Judgment for the Defendant.

Courts may appoint Sittings.

XCIV. Section CCXXXIX. of "The Common Law Procedure Amendment Act (Ireland), 1853," is hereby repealed, and the Superior Courts may appoint and hold Sittings either in Banc, or for the Trial of Issues in Fact by Judge or Jury, at any Time or Times, whether in Term or Vacation, not being between the First of August and the Twentieth of October.

Limitation of Costs in certain Cases.

XCV. If in any Action of Contract brought after the Commencement of this Act in the Superior Courts, (save for Breach of Promise of Marriage,) when the Parties reside within the Jurisdiction of the Civil Bill Court of the County in which the Cause of Action has arisen, the Plaintiff shall recover, exclusive of Costs, a Sum less than Twenty Pounds, or in any Action for any Wrong or Injury disconnected with Contract, (not being for Replevin, Slander, Libel, Malicious Prosecution, Seduction, or Criminal Conversation,) a Sum not exceeding Five Pounds, the Plaintiff in any such Action shall not be entitled to any Costs, unless at the Trial of such Cause the Judge shall certify on the Back of the Record, either that the Case was one which could not have been tried in the Civil Bill Court, or that although within the Jurisdiction of the Civil Bill Court, it nevertheless was a fit

Case to be tried in One of such Superior Courts, or (in case there shall be no Trial) unless the Court or a Judge shall on Motion make an Order to the like Effect; and in case there shall be no such Certificate or Order, it shall not be necessary to enter any Suggestion on the Record to deprive such Plaintiff of Costs.

Clause R.
Certain Sections to apply to every Civil Court in Ireland.

XCVI. The Enactments contained in Sections 14, 22, and 88, of this Act shall apply and extend to every Court of Civil Judicature in Ireland, and the Enactments contained in Sections 23, 24, 25, 26, 27, 28, 29, 30, 33, 35, 36, and 90, shall apply and extend to all Courts of Judicature, as well Criminal as all others, and to all Persons having by Law or by Consent of Parties Authority to hear, receive, and examine Evidence.

Clause S.
Master may proceed under Sects. 98. and 101. of 16 & 17 Vict. c. 113. without Order of Court.

XCVII. In all Cases within Sections Ninety-eight and One hundred and one of the Common Law Procedure Amendment Act (Ireland) 1853, it shall not be necessary to obtain any Direction of the Court or a Judge that the Amount for which final Judgment shall be marked shall be ascertained by the Master, but it shall be lawful for the Master without any such Direction to ascertain such Amount, and the Proceedings for that Purpose shall be in all respects as if a Direction to the Master by the Court or a Judge had in pursuance of the said Sections been made; and it shall be lawful for the Court or a Judge, in any Case in which the Venue shall be laid elswhere than in the County or County of the City of Dublin, instead of a Writ of Inquiry to the Sheriff to ascertain the Amount of Damages, to direct that the Amount for which final Judgment shall be marked shall be ascertained by the Master, and thereupon such Proceedings shall be had as if the Case had been within Section One hundred and one of the Common Law Procedure Amendment Act (Ireland) 1853, and a Direction to the Master under the said Section had been obtained; provided that the Jury shall be a Jury of the County of the City of Dublin, and shall be summoned accordingly.

Court may direct Master to hold Inquiries when Venue not in Dublin.

Clause T.
Judgment in Replevin for Amount of Arrears.

XCVIII. In all Actions for a Replevin of a Distress made for Rent, when the Amount of Rent in arrear at the Time of making such Distress shall have been ascertained as provided by Section Two hundred and thirty of the Common Law Procedure Amendment Act (Ireland), 1853, the Defendant shall have Judgment and Execution to recover against the Plaintiff the Arrears of Rent, whether the Value of the Goods and Chattels distrained shall amount to so much or not, anything in the said Act to the contrary notwithstanding.

Clause U.
Master may draw for Money

XCIX. In all Cases where Money shall have been lodged in Court in lieu of Security for Costs, and the Party lodging shall become entitled to be repaid the said Money or any Part thereof, such Party may, without any Rule or Order for that Purpose, apply to the Master of the Court to draw on the Bank of Ireland in favour of such Party or his Attorney upon Record for such Money or such Part thereof, and the said Master, on being satisfied by Affidavit or otherwise, that the Party applying is so entitled to be repaid, shall thereupon draw accordingly.

lodged as Security for Costs.

C. The Provisions of this Act shall come into operation on the First Day of October in the Year of our Lord One thousand eight hundred and fifty-six.

Commencement of Act.

Courts of Common Law.
(Ireland).

A

B I L L

[AS AMENDED IN COMMITTEE AND
ON RE-COMMITMENT]

To further amend the Procedure in and to enlarge the Jurisdiction of the Superior Courts of Common Law in Ireland.

(Prepared and brought in by
Mr. Attorney General for Ireland and
Mr. Solicitor General for Ireland.)

Ordered, by The House of Commons, *to be Printed,*
9 *May* 1856.

[Bill 131.]

Under 3 oz.

3 *July* 1856. 19 & 20 Vict.

A

BILL

TO

Amend the Law relating to the Criminal Appropriation of Property held by Persons as Trustees or Bailees.

Preamble.

WHEREAS Frauds are frequently committed by Persons having Possession or Control of Monies, Securities for Money, and other Chattels in trust for others, by the fraudulent Appropriation thereof to their own Purposes, and it is desirable that such Frauds should be repressed: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Trustees fraudulently misappropriating Trust Funds guilty of Misdemeanor.

I. If any Executor or Administrator, or any Person having the Possession or Control of any Money, Money in the Funds, Securities for Money, Choses in Action, Goods, Chattels, or other Personal Property, of what Nature or Kind soever, as Trustee thereof, upon any Trust for the Benefit of any other Person or Persons, such Trust being expressed in Writing, or if any Person, having the Possession or Control of any of the Things or Matters aforesaid, with Notice of the same being subject to any such Trust expressed as aforesaid, shall, by selling, pledging, pawning, or otherwise disposing of the same or any Part thereof, convert or appropriate the same or any Part thereof to his own Use and Benefit, with Intent to defraud the Person or Persons or any of them beneficially entitled thereto or to any Part thereof, or to any Interest therein, under the Trusts declared thereof by such Writing, every such Offender shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be transported beyond the Seas for any Term not exceeding *Fourteen* Years, or to Penal Servitude for not more than *Six* Years, or to suffer such other Punishment by Fine or Imprisonment, or by both, as the Court shall award.

Act not to apply to Trustees disposing of their own Interest in Trust Funds.

II. Nothing in this Act contained shall be held to hinder or restrain any Person having such Possession or Control as aforesaid from disposing of or dealing with any partial beneficial Interest he may have in such Money, Money in the Funds, Securities for Money, Choses in Action, Goods, Chattels, or other Personal Property, in as full and ample a Manner for his own Use and Benefit as he could have done if this Act had not been passed.

Act not to prevent Remedy at Law or Equity.

III. Nothing in this Act contained, nor any Proceeding, Conviction, or Judgment in pursuance thereof, shall prevent, lessen, or impeach any Remedy at Law or in Equity which any Person defrauded as aforesaid would have had if this Act had not been passed.

No Person to refuse to answer.

IV. No Person shall refuse to answer any Interrogatories or Questions or to render any Account which he may be required to answer or render, in any Court of Law or Equity, or in any Court for the Relief of Insolvent Debtors, or before any Commissioner of Bankruptcy, by reason of anything in this Act contained: Provided always, that no Person shall be liable to be convicted as an Offender against this Act in respect of any Act done by him if he shall at any Time previously to his being indicted for such Offence have disclosed such Act on Oath, in consequence of any compulsory Process of any Court of Law or Equity in any Action, Suit, or Proceeding which shall have been bonâ fide instituted by any Party aggrieved, or if he shall have disclosed the same in any Examination or Deposition before any Commissioner of Bankrupts or any Commissioner for the Relief of Insolvent Debtors.

Persons stealing Chattels in their Possession by Bailment guilty of Larceny.

V. And whereas if any Person, having lawful Possession of any Chattel by Bailment, afterwards converts the same to his own Use, with Intention to steal the same, such Person cannot now be convicted of Larceny, by reason of such lawful Possession in the first instance, and the Law in this respect requires to be amended: Be it enacted, That if any Person, having lawful Possession of any Chattel by Bailment, shall convert the same to his own Use, with Intention to steal the same, such Person shall be guilty of Larceny, and being convicted thereof shall be liable to be punished accordingly.

Criminal Appropriation of Trust Property.

A

B I L L

To amend the Law relating to the Criminal Appropriation of Property held by Persons as Trustees or Bailees.

(*Prepared and brought in by*
Mr. Attorney General and Mr. Solicitor General.)

Ordered, by The House of Commons, *to be Printed,*
3 *July* 1856.

[Bill 219.]

Under 1 *oz.*

7 *July* 1856. 19 & 20 Vict.

A

BILL

TO

Amend the Act of the last Session of Parliament, for diminishing Expense and Delay in the Administration of Criminal Justice in certain Cases.

Preamble.

18 & 19 Vict. c. 126.

WHEREAS it is expedient to amend the Act of the last Session of Parliament, Chapter One hundred and twenty-six, as herein-after mentioned: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Provision as to Liberties and Places not in Petty Sessional Divisions.

I. So much of Section Nine of the said Act as provides that every Petty Sessions for the Purposes of that Act shall be the Petty Sessions holden for a Petty Sessional Division shall not extend or be applicable to Petty Sessions holden in or for the Liberties of the Cinque Ports or any Part thereof, or to any other Liberty or Place not forming and not being within a Petty Sessional Division.

Criminal Justice.

A

BILL

To amend the Act of the last Session of Parliament, for diminishing Expense and Delay in the Administration of Criminal Justice in certain Cases.

(*Prepared and brought in by*
Mr. Deedes and Sir Edward Dering.)

Ordered, by The House of Commons, *to be Printed,*
7 *July* 1856.

[Bill 226.]

Under 1 *oz.*

15 *July* 1856. 19 & 20 VICT.

A

BILL

TO

Abolish the Office of Cursitor Barón of the Exchequer.

WHEREAS the Office of Cursitor Baron of Her Majesty's Court of Exchequer at Westminster is now vacant by the Death of the Right Honourable George Bankes, and the Duties thereof having for the most part ceased, it is expedient that such Office be abolished: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

Office abolished.

I. The said Office of Cursitor Baron is hereby abolished, and any Duty or Act which might have been performed or done by such Cursitor Baron if this Act had not been passed shall and may be performed and done by any Baron of the Coif of the said Court of Exchequer, or by any Officer of the said Court, as such Court shall from Time to Time direct.

[Bill 253.]

Cursitor Baron of the Exchequer.

A

B I L L

To abolish the Office of Cursitor Baron of the Exchequer.

(*Prepared and brought in by*
The Chancellor of the Exchequer and Viscount Palmerston.)

Ordered, by The House of Commons, *to be Printed,*
15 *July* 1856.

[Bill 253.]

Under 1 *oz.*

9 *July* 1856. 19 & 20 Vict.

(No. 2.)

A

B I L L

FOR

The further Alteration and Amendment of the Laws and Duties of Customs.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Free Goods.

I. The Duties of Customs chargeable on the Goods, Wares, and Merchandise next hereafter mentioned, imported into the United Kingdom, shall cease and determine on and after *the Sixth Day of July One thousand eight hundred and fifty-six:*

Bichromate of Potash:

Metal of any sort, old, and fit only to be re-manufactured.

New Duties.

II. And in lieu of the Duties of Customs now chargeable on the Articles next herein-after mentioned, imported into the United Kingdom, the following Duties of Customs shall be charged on and after the said *Sixth Day of July One thousand eight hundred and fifty-six:*

		£	s.	d.
Beer, Spruce, the Barrel		*1*	*0*	*0*
Musical Instruments; viz., Instruments of Brass, Copper, or of any other Metal, and Parts of such	the lb.	*0*	*0*	*9*
Vinegar	the Gallon	*0*	*0*	*3*

Persons cutting adrift Customs Boats to forfeit 10*l*.

III. Every Person who shall wilfully cut away, cast adrift, remove, alter, deface, sink, or destroy, or in any other Way injure or conceal, any Boat, Buoy, Rope, or Mark in the Charge of or used by any Person for the Prevention of Smuggling, or in or for the Use of the Service of the Customs, shall for every such Offence forfeit the Sum of *Ten Pounds.*

Section 22. of 18 & 19 Vict. c. 96. to include Bailiff, &c. in Channel Islands.

IV. The Bailiff or Chief Magistrate of Guernsey and Jersey, and the Judge and Magistrates of Alderney, shall have the same Powers as are by Section Twenty-two of "The Supplemental Customs Consolidation Act, 1855," extended to Jurats of the Channel Islands.

Subsistence Allowance to poor Prisoners, and Payment of Gaol Fees in Channel Islands.

V. The Commissioners of Customs may, out of any Money in their Hands voted by Parliament, allow and pay for the necessary Subsistence of any poor Person confined in any Prison in the Channel Islands, under or by virtue of any Process for the Recovery of any Duties, Penalties, or Forfeitures under this or any other Act relating to the Customs, such weekly or daily Sum as by the Regulations of the Prison in which such poor Person may be confined is required for the Maintenance of poor Insolvent Debtors, and also such Gaol Fees as are properly payable in respect of any Prisoner or Defendant at the Suit of the Crown for any Offence against the Laws relating to the Customs.

Commissioners of Customs may invest certain surplus Monies in their Hands, and apply Proceeds to Payment of Compensations.

VI. Whereas by an Act of the Second and Third Years of the Reign of King William the Fourth, Chapter Ninety, the Commissioners of Her Majesty's Treasury, or any Three or more of them, are empowered to grant to certain Inspectors and Meters of Coals in the City of Dublin entitled to certain Fees and Payments a Compensation for the Loss of the same, not exceeding in Amount to any one of them the respective Sums set forth in the Schedule to that Act: And whereas by the said Act the Sum of Fourpence was, with Power from Time to Time to reduce the same, imposed upon every Ton of Coals imported into the Port of Dublin, to provide a Fund for Payment of such Compensation, and the same has been reduced to One Halfpenny per Ton: And whereas it is expedient to provide for the Disposal of the same and any further surplus Monies arising from such Fund during the Existence of the Persons so entitled to such Compensation: And whereas it is expedient, with a view to the Abolition of the said Tolls at the earliest possible Period, to provide for the Disposal of any Sums now in hand, and any further surplus Monies arising from the Collection of such Tolls, in the Purchase of Government Annuities on the Lives of the Persons entitled to Compensation under the said Act, and apply the same in Satisfaction thereof, whereupon the said Tolls may cease: Be it enacted, That the

Commissioners of Customs out of any such surplus Monies now in their Hands, or which may hereafter from Time to Time come to their Hands by virtue of the said Act, may invest the same in the Purchase of Government Annuities, and pay and apply such Annuities to the Use and Benefit of such Persons as may during their Lives respectively be entitled to receive the Compensation Allowances granted under and by virtue of the said Act.

Costs awarded to be paid to Crown to be received by Collector of Customs.

VII. All Sums, including Justices Clerks Fees, awarded to be paid as Costs to or for Her Majesty by any Justice in respect of any Proceedings for the Recovery of any Duty, Penalty, or Forfeiture under any Act relating to the Customs or to Trade or Navigation, shall be paid over to the Collector of Customs at the Port where any such Proceedings may be instituted, who shall account for the same in such Manner as the Commissioners of Customs may direct.

Fees payable to Justices Clerks for Investigations under "Merchant Shipping Act."

VIII. There shall be payable to Justices Clerks, in respect of formal Investigations into Wrecks, under the Provisions of "The Merchant Shipping Act, 1854," held at the Instance of the Solicitor for the Customs, by Direction of the Board of Trade, or at the Request of any Officer of Customs or Coast Guard, the several Sums specified in the Table of Fees to this Act annexed.

Act to be registered in the Royal Courts of Guernsey and Jersey.

IX. This Act shall be registered in the Royal Courts of Guernsey and Jersey respectively, and the said Royal Courts respectively shall have full Power and Authority and are hereby required to register the same.

Commencement of Act.

X. This Act shall be deemed to commence and come into operation from and after the *Fifth Day of July One thousand eight hundred and fifty-six.*

TABLE of FEES referred to in the foregoing Act.

		£	s.	d.
Taking Instructions to hold Investigation		0	3	4
Convening Justices		0	5	0
Summons (and Duplicate) to Witness	each	0	3	0
For Officer or Person employed to serve Summons	each Service	0	2	6
Taking down Examination of Witness in Writing	per Folio	0	0	8
Copy of Evidence (when required)	per Folio	0	0	2
Drawing Report to Board of Trade	per Folio	0	1	0
Fair Copy	per Folio	0	0	4
Attending Justices for their Approval and Signature		0	3	4
Letter to Board of Trade with Report		0	3	6

Customs.

(No. 2.)

A

BILL

For the further Alteration and Amendment of the Laws and Duties of Customs.

(Prepared and brought in by Mr. Wilson and the Chancellor of the Exchequer.)

Ordered, by The House of Commons, *to be Printed,* 9 *July* 1856.

[Bill 130.]

Under 1 *oz.*